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## **INTRODUCTORY PROVISIONS**

### **01.000 GENERAL**

#### **01.010 TITLE**

This ordinance shall be known as the Community Development Code of the City of West Linn, and shall be referred to herein as this Code.

#### **01.020 PURPOSE**

As a means of promoting the general health, safety and welfare of the public, this Code is designed to set forth the standards and procedures governing the development and use of land in West Linn and to implement the West Linn Comprehensive Plan. To these ends, it is the purpose of this Code to maintain and improve the existing character and quality of West Linn through:

- A. Identifying and protecting resource lands from urban development encroachment.
- B. Providing for the natural and cultural resources of the community.
- C. Providing adequate land to meet anticipated future demands for development in a logical and orderly manner.
- D. Encouraging flexibility and innovation in development techniques to permit diversity within the community. (ORD. 1408)
- E. Providing for a range of housing types and costs in order to offer a wide variety of choices to present and future West Linn residents.
- F. Contributing to a healthy and diverse economy in West Linn.
- G. Providing for an orderly and timely provision of public facilities and services for future urban development.
- H. Providing for citizen participation in all phases of the planning process.

#### **01.030 COMPLIANCE**

- A. Except as otherwise specifically provided by this zoning code, no building or other structure shall be constructed, improved, altered, enlarged or moved, nor shall any use or occupancy of premises within the City be commenced or changed, nor shall any condition of or upon real property be caused or maintained after the effective date of this Code, except in

conformity with conditions prescribed for each of the several zones and general regulations established hereunder.

- B. It shall be unlawful for any person to erect, construct, establish, occupy, alter, enlarge, or use, or cause to be used, any building, structure, improvement or use of premises located in any zone described in this zoning code contrary to the provisions of this code. Where this zoning code imposes greater restrictions than those imposed or required by other rules or regulations or code provisions, the provisions of this zoning code shall control.
- C. No lot area, yards, other open space or off-street parking or loading area existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance. No fee conveyance of any portion of a lot, for other than a public use, shall leave a structure on the remainder of the lot with less than minimum ordinance requirements.
- D. No lot area, yard, or other open space or off-street parking or loading area which is required by this ordinance for one use shall be a required lot area, yard, or other open space of off-street parking or loading area for another use, except as provided in Section 05.030(A).

**01.050 CERTIFICATE OF OCCUPANCY**

In order to assure completion of the work in the manner and at the time approved, the premises shall not be used or occupied for the purposes set forth in the permit until the City has issued a Certificate of Occupancy following completion of the work in substantial conformance to the permit. The Building Official shall not approve the final inspection of the building until all required conditions of approval established by the decision-making authority, including the Planning Director and City Engineer, are met. Prior to the final completion of all work, a final inspection approval and a certificate of occupancy may be issued for the premises on condition that all further work shall be completed by a date certain and guaranteed by case deposit of 200% of accepted estimated cost of project or improvements. The Building Official shall also require that the following

statement be printed on all permits issued that have conditions of approval imposed upon them:

“The issuance of this permit should not be construed to be a permit for, or approval of, any violation of the provisions of any relevant state building, mechanical, or other specialty code, or any City Code or conditions imposed on the permit holder for the development/use of the property involved herein. The issuance of this permit shall not prevent the Building Official from requiring correction of errors by the permit holder or others acting under this permit or preventing the denial of a Certificate of Occupancy for failure to comply with all pertinent code provisions or conditions of approval.” (ORD. 1408)

**01.060 INTERPRETATION**

- A. The Planning Director shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this Code. A request for an interpretation shall be made in writing to the Planning Director. The Director's interpretation may be appealed to the Commission as provided by Section 99.060(B)(C).
- B. The Director may develop guidelines to aid in the implementation and interpretation of the provisions of this Code.

**01.070 SEVERABILITY**

Should any section, sentence, clause, or phrase of this Code be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Code as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

**01.080 OFFICIAL ACTION**

All officials, departments and employees of the City vested with authority to issue permits or grant approvals shall adhere to and require conformance with this Code, and shall issue no permit or grant approval for any development or use which violates or fails to comply with conditions or standards imposed to carry out this Code. Any permit or approval issued or granted in conflict with the provisions of this chapter, whether intentional or otherwise, shall be void.

**01.090 SITE ACCESS**

The submittal of a City of West Linn development application represents permission for the decision-making authority and staff to have reasonable access to the site. (ORD. 1408)

(AMENDED PER ORD. 1408; 2/98)

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## **02.000 DEFINITIONS**

### **02.010 INTERPRETATION**

For the purpose of this Code, certain terms or words used herein shall be interpreted as follows.

1. The word "shall" is mandatory, the word "may" is permissive.
2. The words "used" or "occupied" shall include the words intended, designed, or arranged to be used or occupied.
3. The word "lot" includes the future tense, the singular number includes the plural, and the plural number includes the singular.

### **02.030 SPECIFIC WORDS AND TERMS**

For the purpose of these regulations, the following terms or words are defined as follows.

**Access.** The way or means by which pedestrians and vehicles enter and leave property.

**Access point.** An access point includes a driveway, public, or private street or access easement. (ORD. 1463)

**Accessory dwelling unit (ADU).** Attached or detached dwelling unit which is secondary to the primary dwelling unit and intended to provide convenient and affordable housing opportunities. (ORD. 1463)

**Accessory structure.** A subordinate structure with a maximum area of 1,500 square feet, except for agricultural buildings, located on the lot, the use of which is clearly incidental to and associated with the principal use. (ORD. 1463)

**Accessory use.** A use which is incidental and subordinate to the principal use.

**Acres, gross.** All of the land area owned by the applicant in the subject parcel or parcels under consideration.

**Acres, net.** The total gross acres less the public right-of-way and other acreage deductions, as applicable. (ORD. 1463)

**Adequate Public Facilities.** Public facilities that must be adequate for an application for new construction, remodeling, or replacement of an existing structure, to be approved are transportation, water, sewer, and storm sewer

facilities. To be adequate, on-site and adjacent facilities must meet City standards, and off-site facilities must have sufficient capacity to 1) meet all existing demands, 2) satisfy the projected demands from projects with existing land use approvals, plus the additional demand created by the application, and 3) remain compliant with all applicable standards. (ORD. 1544)

For purposes of evaluating discretionary permits in situations where the level-of-service or volume-to-capacity performance standard for an affected City or State roadway is currently failing or projected to fail to meet the standard, and an improvement project is not programmed, the approval criteria shall be that the development avoids further degradation of the affected transportation facility. Mitigation must be provided to bring the facility performance standard to existing conditions at the time of occupancy.

**Administrative action.** A quasi-judicial action, including the following: through 106 in which the legal rights, duties or privileges of specific parties are determined, and any appeal or review therefrom.

**Administrator.** The City Manager of West Linn, Oregon or a duly authorized representative. (ORD. 1463)

**Agricultural building.** A structure located on a farm and used in the operation of such farm for the storage, maintenance or repair of farm machinery and equipment or for the raising, harvesting and selling of crops or in the feeding, breeding management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees, or for dairying and sale of dairy products or any other agricultural or horticultural use, or animal husbandry or any combination thereof, including the preparation and storage of products raised on such farm for man's use and animal use and disposal by marketing or otherwise.

**Alley.** A minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

**Alteration.** A change in construction or a change of occupancy. When the term is applied to a change in construction, it is intended to apply to any change,

addition, or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one trade or use to another or from one division of trade or use to another.

**Alteration, structural.** Any change or repair which would tend to prolong the life of the supporting members of a building or structure, such as alteration girders. In addition, any change in the external dimensions of the building shall be considered a structural alteration.

**Appeal.** A request that a final decision by the Director be considered by a higher authority either on the basis of a *de novo* hearing or with the inclusion of evidence in addition to that considered by the maker of the initial decision.

**Approval or approved.** A determination by the City of West Linn approval authority that the provisions of this Code have been met. (ORD. 1463)

**Approval authority.** Either the Director, the initial hearing body, or the Council, depending on the context in which the term is used.

**Area of shallow flooding.** A designated AO or AH zone as seen on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding. (ORD. 1463)

**Area of special flood hazard.** The land in the flood plain subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V. (ORD. 1463)

**Arterial.** A street whose primary function is to provide for the movement of through traffic between areas and across portions of the City or region, and having the subordinate function of providing direct access to abutting land. Depending on the nature and location of an arterial street, it may be designed to the standards of a minor arterial street or a major arterial street. (ORD. 1463)

**Authorized.** Having been granted written permission from the property owner(s) to act on his/her/their behalf. (ORD. 1463)

**Bankful Stage:** The stage or elevation at which water overflows the natural banks of a stream or other waters of the state and beings to inundate upland areas. In the absence of physical evidence, the two-year recurrent flood elevation may be used to approximate the bankful stage. (ORD. 1545)

**Base flood.** The flood having a one percent chance of being equated or exceeded in any given year. Also referred to as the “100-year flood.” Designation on maps always includes the letters A or V. (ORD. 1463)

**Base flood elevation.** The base flood elevation is the elevation (normally in feet above sea level) which the base flood is expected to reach. (ORD. 1463)

**Basement.** Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

**Bed and breakfast.** Overnight accommodations and a morning meal in a dwelling unit provided to transient guests for compensation. (ORD. 1463)

**Below-grade crawl space.** Shall mean an enclosed area below the base flood elevation in which the interior grade is not more then two feet below the lower adjacent exterior grade. The height of the crawlspace as measured from the interior grade of the crawlspace to the top of the crawlspace foundation, may not exceed 4 feet at any point. (ORD. 1565)

**Bike path.** A way designed for and improved with a hard surface, and signed for use by bicycle traffic.

**Block length.** The distance measured along all that part of one side of a street which is between the centerline of two intersecting or intercepting streets, or between an intersecting or intercepting street, undivided acreage, or other major barrier.

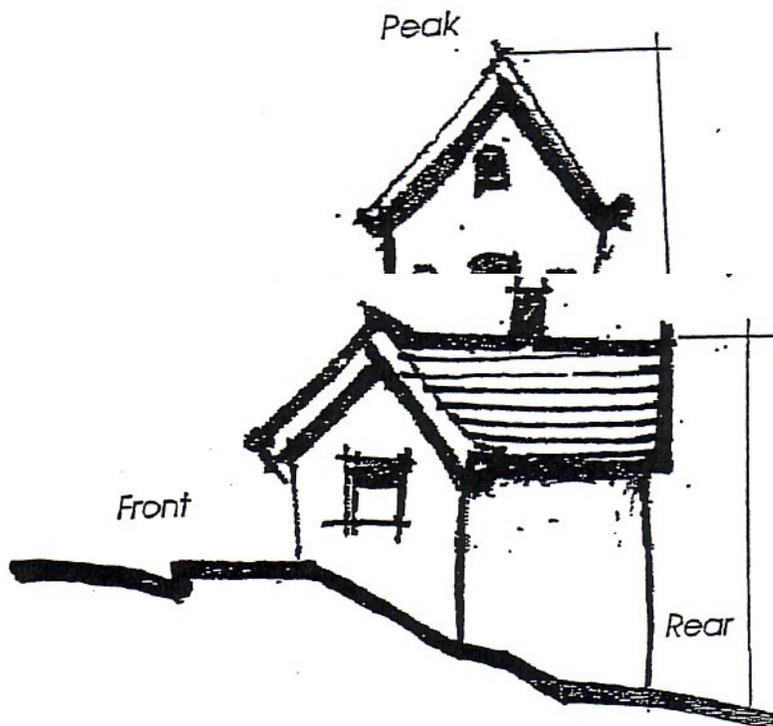
**Buildable lot.** A lot legally created through a West Linn or Clackamas County land use action, which meets the area and dimensional requirements of the underlying zone or that is a non-conforming lot of record that meets the requirements of Section 68.040. (ORD. 1463)

**Building.** Any structure used or intended for supporting or sheltering any use or occupancy.

**Building height.** The vertical distance above a reference datum measured to the highest point a flat roof or to the deck line of a mansard roof or to the highest gable, ridgeline or peak of a pitched or hipped roof. Cupolas , towers, etc are not used as the high point per CDC Chapter 40. The reference datum shall be selected by either of the following, whichever yields a greater height of building.

1. For relatively flat sites where there is less than a 10 foot difference in grade between the front and rear of the house, the height of the house shall be measured from grade five feet out from the exterior wall at the front of the house; or,
2. For steeper lots where there is more than a ten-foot difference in grade between the front and rear of the house, the height of the house is measured from grade at a point five feet out from the exterior wall on the lowest side (front or rear) of the house. One then measures vertically to the peak or ridgeline of the roof to determine the height.
3. Homes on cross slopes or side slopes are measured at either the front or rear of the house using methods described in (1) and (2) above only. Even if the cross slope creates a tall elevation on the side; the method of determining height is not modified.

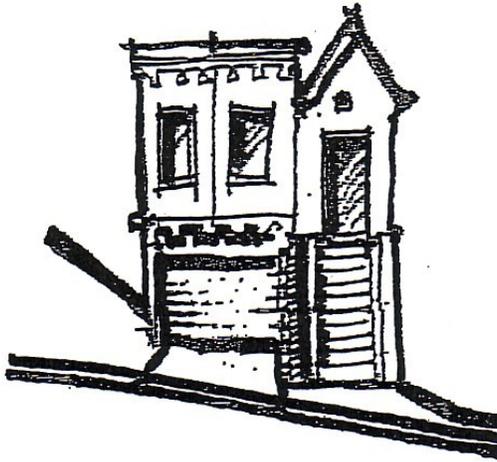
Also see CDC Section 41.020, HEIGHT EXCEPTIONS.



*Height of home on relatively flat lot is measured from grade at front of house to peak of roof.*

*Height of home on steep lots where there is more than a ten foot difference in elevation between the front and rear of the house, is measured from grade at a point five feet out from the front or rear exterior wall on the lowest side of*

*the house to the peak of the house.*

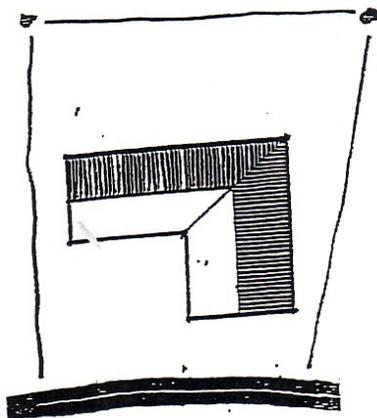


*Height of home with a cross slope are still measured at either the front or rear by methods described in (1) or (2) above.*

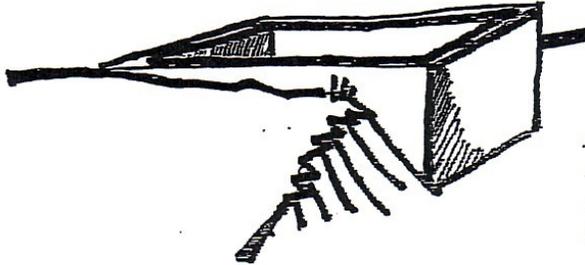
Floor Area Ratio (FAR). The FAR is that percentage of the total lot size that can be built as habitable space. A FAR of .45 means that the square footage of the lot is multiplied by .45 to yield the total habitable square footage of the house including accessory dwelling units. For example, on a 10,000 square foot lot, an FAR of .45 will allow a 4,500 square foot house ( $10,000 \times .45 = 4,500$ ).

The FAR does not include or apply to attached garages. The FAR does not apply to detached garages, accessory dwelling units and accessory structures except that these detached structures may not individually exceed the height or square footage of the principal dwelling.

The FAR does not include basement areas that average less than 50% of the basement perimeter exposed above grade. Uninhabitable space such as crawl spaces, attics, and spaces designed under the Flood Management Area Permit program to allow the passage of floodwaters are also exempt.

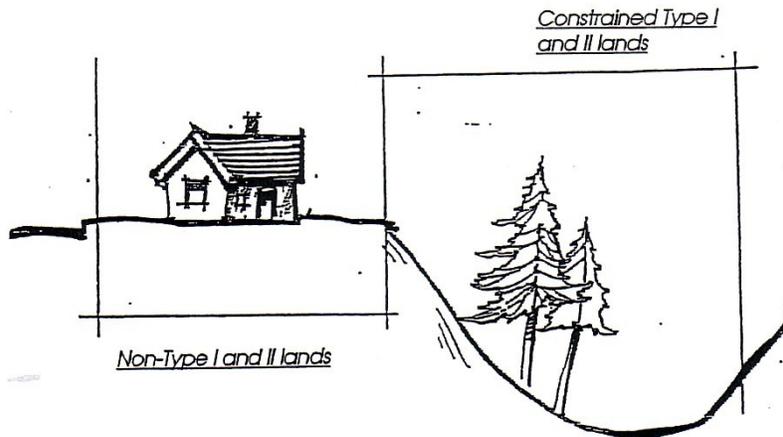


*FAR applied to a 10,000 square foot lot yields a 4,500 square foot house. The bigger the lot, the bigger the house. FAR excludes attached garage, detached garages and accessory structures, uninhabitable spaces, basements predominantly below grade, spaces required to meet Flood Management Permit standards. Accessory structures cannot exceed the height or square footage of the principal dwelling.*



*Basements are exempt from FAR if less than 50 percent of basement is exposed above grade.*

Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of .30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a “non-conforming structures” permit under CDC Chapter 66.



Type I and II lands are excluded from FAR calculations. But the property owner is guaranteed at least a FAR of .3 (30%) for the total site including type I and II lands.

**Building line.** A line on a plat indicating the limit beyond which buildings or structures may not be erected.

**Certified professional in erosion and sediment control.** A person who has been so determined by the Soil and Water Conservation Society and the International Erosion Control Association (Urban Watershed Institute).

(ORD. 1463)

**City.** The City of West Linn, Oregon.

**Clear vision area.** An area which consists of a triangular area, two sides of which are lot lines measured from the corner intersection of the access point lot lines for a distance specified in this regulation.

**Collector.** A street supplementary to the arterial street system and a means of circulation between arterials and local streets; used to some extent for access to abutting properties and may be used to a limited extent for through traffic.

**Commission.** The Planning Commission of West Linn, Oregon.

**Community building.** A building operated by the public or a non-profit group, neighborhood or association for public assembly for meetings, arts, crafts or similar uses. Examples of a community building are a senior center or arts center.

**Comprehensive Plan.** The official document of West Linn that includes goals and policies that direct how West Linn will develop. It also may include action measures or strategies for implementing the goals and policies. The Comprehensive Plan is adopted by ordinance, and thus, has the force of law and is the basis for the Community Development Code. (ORD. 1463)

**Conditional use.** A use which may be permitted by the approval authority following a public hearing, upon findings by the authority that the approval criteria have been met or will be met upon satisfaction of conditions of approval.

**Conservation easement.** An easement established by the property owner that limits, but does not prohibit, use of the area within the conservation easement. For example, limitations may include tree protection, or protection of a wetland or creek. The property owner owns the land within easement boundaries.

(ORD. 1463)

**Corner lot.** A lot or parcel abutting on two intersecting streets other than an alley, excluding lots or parcels with boundary line angles greater than 135 degrees.

**Council.** The City Council of West Linn, Oregon.

**Court.** A space, open and unobstructed to the sky, located at or above grade level

on a lot and bounded on three or more sides by walls of a building.

**Critical facility.** Shall mean a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police stations, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste. (ORD.1565)

**Cul-de-sac.** A street or streets having one end open to traffic and the other end or ends terminating in a vehicle turnaround. (ORD. 1463)

**Cut or excavation.** Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated. (ORD. 1463)

**Dedication.** The legal conveyance of land, typically from a private property owner to the City. Dedication is typically required of developers where it can be shown that additional land for right-of-way is needed for adjacent street improvements or public facilities such as foot paths or utility corridors. Dedication is also appropriate for the purpose of protecting a resource area such as a wetland or forested area, from development or disturbance. Dedication is preferred over establishing a conservation easement since the original property owner no longer has any right to the property and is, therefore, less likely to impact or disturb a resource area. (ORD. 1463)

**Design flood elevation.** The elevation of the 100-year storm as defined in FEMA Flood Insurance Studies or, in areas without FEMA floodplains, the elevation of the 25-year storm, or the edge of mapped flood prone soils or similar methodologies. (ORD. 1463)

**Developer.** The owner of land proposed to be developed or partitioned, or representative. Consent shall be required from the legal owner of the premises for any proposed development or division of land as provided in this ordinance. Within the Flood Management Area, this term shall include storage of equipment or materials. (ORD. 1175)

**Development.** Any man-made change defined as the construction of buildings or other structures, mining, dredging, paving, filling, grading or site clearing, and

grubbing in amounts greater than 10 cubic yards on any lot or excavation. Within the Flood Management Area, this term shall also include storage of equipment or materials.

(ORD. 1463, ORD. 1565)

**Director.** The Planning Director of West Linn, Oregon, or authorized agent.

**Division of land.** The process of dividing a tract, lot or parcel into two or more lots or parcels by subdividing or partitioning. A division of land shall be deemed to have occurred at the time when the final approved plat is recorded with the County Recorder's office. (ORD. 1463)

**Drainageways.** The channel of a drainage course, or other water course and the adjacent land areas that must be reserved in order to discharge surface run-off water.

**Drop-box, trailer, or structure of similar function.** A drop-box, truck trailer or structure of similar function intended for the collection of donations which may include newspaper, household goods, clothes, cardboard, and other items. These drop-boxes shall be operated by registered non-profit benevolent organizations, groups, associations or religious orders.

**Dwelling unit.** One or more rooms designed for occupancy by one family for living purposes providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Easement.** A grant of the right to use a strip of land for a specific purpose.

**Emergency.** Any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease. (ORD. 1463)

**Engineer.** The City Engineer of West Linn, Oregon or a duly authorized representative.

**Erosion.** The process in which, by the actions of wind or water, soil particles are displaced and transported. (ORD. 1463)

**Erosion prevention and sediment control.** Measures that are required for construction sites where the ground surface will be disturbed with clearing, grading, fills, excavations, and other construction activities, in order to prevent and/or control eroded material and sediment from leaving the construction site and entering the City storm system and/or a water quality resource area.

**Erosion control, post construction.** The re-establishment of groundcover or landscaping prior to the removal of temporary erosion control measures.

**Erosion, visible or measurable.** Visible or measurable erosion includes, but is not limited to: deposits of mud, dirt, sediment, or similar material, exceeding one-half cubic foot in volume on public or private streets, adjacent property, or into the storm and surface water system, either by direct deposit, dropping discharge, or as a result of the action of erosion; evidence of concentrated flows of water over bare soils, turbid or sediment-laden flows, or evidence of on-site erosion such as rivulets on bare soil slopes where the flow of water is not filtered or captured on the site; and/or earth slides, mudflows, earth sloughing, or other earth movement that leaves the property. (ORD. 1463)

**Expedited land division.** A type of land division application for subdivision or partitioning of land for residential development that meets all of the definitional requirements of expedited land division, as defined by ORS 197.360. (ORD. 1401)

**Fact finding body.** A body sitting for the purpose of determining the facts. The decision of the body is not discretionary. (ORD. 1463)

**Family.** Two or more persons related by blood, marriage, legal adoption, or guardianship; or a group of not more than five persons all or part of whom are not so related by blood or marriage living together as a single housekeeping unit in a dwelling unit. (ORD. 1463)

**Fee simple.** Land which is owned, typically by the owner of the house or building that occupies the land. (ORD. 1463)

**FEMA (Federal Emergency Management Agency).** The agency which

administers the National Flood Insurance Program. (ORD. 1463)

**Fence.** A vertical barrier for the purpose of screening, security and/or property delineation. (ORD. 1463)

**Fill.** Placement of any soil, sand, gravel, clay, mud, debris and refuse, or any other material, organic or inorganic.

**Final action, final decision, or final order.** A determination reduced to writing, signed and filed under Section 99.110(F) by the appropriate approval authority. (ORD. 1463)

**Findings.** A written statement of the facts determined at a public hearing. The findings are applied to the relevant approval criteria or standards by the approval authority as the basis for making its decision.

**Flag lot.** A lot complying with all other provisions of the Community Development Code which does not meet the minimum street frontage requirement of 35 feet, and which gains access to the public right-of-way via an access strip no less than 15 feet in width. (ORD. 1463)

**Flood or flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, and/or the unusual and rapid accumulation of runoff of surface waters from any source. (ORD. 1463)

**Flood, base.** The flood having a one percent chance of being equalled or exceeded in any given year.

**Flood Insurance Rate Map (FIRM).** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study.** The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

**Flood management areas.** All lands contained in the Flood Management Area Overlay Zone which include: lands within the 100-year floodplain, flood area, and floodway as shown on the FEMA flood insurance map dated June 17, 2008;

the area of inundation for the February 1996 flood; and lands which have documented evidence of flooding. (ORD. 1463)

**Floodplain.** Land subject to periodic flooding, including the 100-year floodplain as mapped by FEMA Flood Insurance Studies or other substantial evidence of actual flood events. (ORD. 1463)

**Floodway.** The portion of a watercourse required for the passage or conveyance of a given storm event as identified and designated by the City. The floodway includes the channel of the watercourse and the adjacent floodplain that must be reserved in an unobstructed condition in order to discharge the base flood. (ORD. 1463)

**Floodway fringe.** The area of the floodplain, lying outside the floodway, which does not contribute appreciably to the passage of floodwater, but serves as a retention area. (ORD. 1463)

**Floor area.** The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. Attic spaces and unfinished basements shall not count for the purpose of determining parking requirements. (ORD. 1463)

**Front of house on corner lot.** The side of the house that incorporates features such as front door, driveway, garage, large amount of glazing relative to other sides of house and other design features. The rear of the house that is functionally the main activity area typically includes the family room and/or dining room, etc. The functional front and rear do not have to be opposite from one another. (ORD. 1463)

**Frontage.** Property abutting on a street.

**Frontage road.** A minor street parallel and adjacent to arterial street providing access to abutting properties, but protected from through traffic.

**Grade.** The slope of a road, street or other public way, specified in terms of

percentage of slope.

**Grade, ground level.** The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

**Ground disturbing activity.** Any activity that exposes soil through the use of motorized equipment. (ORD. 1463)

**Habitable floor.** Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."

**Implementing ordinance.** An ordinance adopted to carry out the Comprehensive Plan.

**Initial hearing body.** The decision-making body that renders the first decision in a land use case or legislative hearing. (ORD. 1463)

**Intermittent stream.** Streams, or portions of streams, that flow only in direct response to precipitation. They receive little or no water from springs. They carry no measurable flow for three months of the year. (ORD. 1463)

**Intersection.** A place where a street and access point adjoin each other.

**Landscaping.** An area covered by grass, trees, bushes, and other vegetative material. Bark mulch may only be allowed when trees, plants, or shrubs are planted in that area so that the drip line of the trees and shrubs covers 75 percent of the bark mulch, or can be expected to do so within two growing cycles or years. Patio areas, decks and walkways may only comprise 25 percent of the landscaped area. Walkways and sidewalks not adjacent to vegetative landscaped areas cannot be considered to be part of the landscaping. (ORD. 1463)

**Legislative.** Any proposed action which would result in a change in City policy including:

- A change to the Comprehensive Plan text.

- A change to the Comprehensive Plan Map which involves a number of parcels of land.
- A change to the text of an implementing ordinance.
- A change to the zoning map which involves a number of parcels of land.
- A change to any land use plan or map which represents a change in City land use policy.

**Limited duration.** A temporary ground disturbing activity where water quality standards may be violated briefly, but not of sufficient duration to cause acute or chronic effects on beneficial uses. (ORD. 1463)

**Loading space.** An off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle which is loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other appropriate means of access and egress.

**Loading space.** An off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle which is loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other appropriate means of access or egress. (ORD. 1463)

**Local street.** A street which functions primarily to provide access to abutting land, serving local traffic movements and not intended to accommodate through traffic. (ORD. 1463)

**Lot.** A plot, parcel, or area of land owned by or under the lawful control and the lawful possession of one distinct ownership.

**Lot area.** The total area of a lot measured in a horizontal plane within the lot boundary lines exclusive of public and private roads, and easements of access to other property or the private driveway area of a flag lot.

**Lot, corner.** A lot abutting on two or more streets, other than an alley at their intersection.

**Lot, coverage.** The area covered by a building or buildings on a lot, expressed as a percentage of the total lot area. For residential lots, these buildings shall include the principal residence or house, any accessory dwelling unit, and the next largest accessory structure such as a garage, etc. Additional structures shall not count. Paved surfaces do not count. (ORD. 1463)

**Lot, depth.** The average horizontal distance between the front lot line and rear lot line.

**Lot, double frontage.** See "Lot, through."

**Lot, flag.** A lot or parcel which includes a private accessway as part thereof.

**Lot line.** The property line bounding a lot.

**Lot line adjustment.** The relocation of recorded lot lines which does not result in the creation of an additional lot or buildable lot. (ORD. 1172)

**Lot line, front.** For an interior lot, a line separating the lot from the street; and a corner lot, a line separating either (but not both) frontage of the lot from the street as determined by the City.

**Lot line, rear.** For an interior lot, a line separating one lot from another on the opposite side of the lot from the front lot line; for corner lots either (but not both) interior lot lines separating one lot from another; and for an irregular or triangular-shaped lot, a straight line ten feet in length that is parallel to and at the maximum distance from the front lot line. The City shall determine the rear lot line for corner lots.

**Lot line, side.** For interior lots, a line separating one lot from the abutting lot or lots fronting on the same street; for corner lots, a line other than the front lot line separating the lot from the street or a line separating the lot from the abutting lot along the same frontage.

**Lot of record.** A lot which, when created, was in conformance with applicable land use regulations. (ORD. 1463)

**Lot, through.** An interior lot having frontage on two streets.

**Lot width.** The horizontal distance between side lot lines, measured at the

building line.

**Lowest floor.** The lowest floor of the lowest enclosed area (including basement).

An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of CDC Chapter 27. (ORD. 1463)

**Minimum lot size.** The smallest area permitted for a new lot in a particular zone.

For example, in a single-family residential zone, a single house may be constructed on a lot no smaller than a certain size (e.g. 5000 square feet). In a multi-family zone, the smallest allowable size of the lot may vary depending on the number of apartments or other units constructed. (ORD. 1463)

**Mitigation.** The reduction of adverse effects of a proposed project by considering, in the order: a) avoiding the impact altogether by taking a certain action or parts of an action; b) minimizing impacts by limiting the degree or magnitude of the action and its implementation; c) rectifying the impact by repairing, rehabilitating, or restoring the effected environment; d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and, e) compensating for the impact by replacing or providing comparable substitute water quality resource areas. (ORD. 1463)

**Mulch.** Application of plant residue, netting, plastic, sheeting or other suitable materials to the land surface to conserve moisture, hold soil in place and aid in establishing plant cover. Plastic mulch may be used only temporarily, during construction activities.

**Native vegetation.** Any vegetation native to the Portland metropolitan area or listed on the Metro Native Plant list as adopted by Metro Council resolution.

**Natural resource.** A functioning natural system such as a wetland or stream.

**Natural resource area.** The land containing the natural resource to be protected.

**Negotiate.** Any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including but not limited to

advertising, solicitation, and promotion of the sale of such land.

**New construction.** Structures for which the "start of construction" commenced on or after the effective date of this ordinance.

**Noise Definitions:**

**Statistical noise.** A composite noise level obtained through statistical analysis of noise levels over a selected time period. The standard time period for such analysis as set by the Oregon Department of Environmental Quality is one hour.

**Impulse sound.** Also known as impact noise, an instantaneous rapid noise event which is very short in duration. Examples include a hammer blow on hard material, a quick compressed air discharge, an automobile horn blow, or an engine backfire.

**Unweighted sound level.** A measurement of the level of sound without using statistical analysis to weight the results over time.

**Center frequency.** The mid-point of each of nine octave-band frequencies set by the Oregon Department of Environmental Quality which are used to measure noise impacts of sounds at different frequencies or pitches.

**Non-conforming lot.** A lot which does not meet the requirements of the applicable zone in terms of required lot area, width, or depth.

**Non-conforming structure of use.** A lawful existing structure or use, at the time the ordinance codified in this title or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

**Non-conforming use of land.** A lawful use of land which existed prior to the effective date of this Code where the use involves no structure or building other than a single minor accessory structure or sign(s) and which would not be permitted by the applicable regulations of this Code.

**Open space.** Land that is undeveloped and that is planned to remain so indefinitely. The term encompasses parks, forests, and farm land. It may also refer only to land zoned as being available to the public, including playgrounds,

watershed preserves, and parks. (ORD. 1463)

**Ordinary mean high water line.** As defined in ORS 141-82-005 as the line on the bank or shore to which water ordinarily rises in season; synonymous with mean high water (ORS 274.005). (ORD. 1463)

**Ordinary mean low water line.** As defined in OAR 141-82-005 as the line on the bank or shore to which water ordinarily recedes in season; synonymous with mean low water (ORS 274.005). (ORD. 1463)

**Owner.** Any person, agent, firm, or corporation having a legal or equitable interest in the property.

**Parcel.** A unit of land that is created by a partitioning of land.

**Parking space.** A space as defined by the standards set forth in Chapter 46.

**Parkway (parking strip).** That portion of street right-of-way lying between the curb line of the improved roadway and the adjacent private property line.

**Partition.** Either an act of partitioning land or an area or tract of land partitioned.

**Partition land.** To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of the year. Partition land does not include divisions of land resulting from lien foreclosures; divisions of land from foreclosures of recorded contracts for the sale of real property and division of land resulting from the creation of cemetery lots; and partition land does not include any adjustment of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot standards established by the zoning ordinance. Partition land does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner. When it appears to the Planning Director that the area is to ultimately be divided into four or more lots or parcels, conformance with the provisions of this ordinance pertaining to subdivisions may be required.

**Party.** A person who has the right to pursue appeal or review of a decision of an approval authority.

**Pedestrian way.** A right-of-way for pedestrian traffic.

**Permeable parking surface.** A parking surface with proper base and subgrade preparation designed to incorporate pervious areas into paving systems, using either concrete or plastic products. A 100% gravel parking surface does not qualify as a permeable parking surface. (ORD. 1463)

**Permit.** An official document issued by the City of West Linn authorizing performance of a specified activity. (ORD. 1463)

**Person.** Any person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.

**Petition for review.** A review of a land use decision made by the Planning Commission or Hearings Officer.

**Plat.** The final map, diagram, drawing, replat or other writing containing all the descriptions, locations, specification, dedications, provisions, and information concerning a subdivision of which the subdivider submits for approval and intends in final form to record.

**Potentially severe erosion hazard area.** Surface areas where erosion can be easily caused by removal of vegetation cover, stripping topsoil or by placement of fill, whether by natural causes such as streams or surface runoff or by development activities. The placement of any new fill or severe cuts in such an area shall be considered as creating a potentially severe erosion hazard.

**Potentially severe landslide hazard area.** Areas where earth movement or failure, such as slumps, mud flows, debris slides, rock falls or soil falls are likely to occur as a result of development activities. These activities include excavation which removes support of soils by changes in runoff, or groundwater flow or vibration loading such as pile driving or blasting.

**Practicable.** Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose. (ORD. 1463)

**Pre-application conference.** A meeting between city staff and a prospective

applicant, who is not necessarily the property owner but has the written permission of the property owner to schedule the conference, prior to the submittal of an application for a development permit. (ORD. 1463)

**Primary structures.** Structures which significantly define the Willamette Historic District's character are called "primary" contributing. These structures were constructed between 1890-1920; most original architectural features (i.e., windows, roof form, porches, siding) remain intact. These structures represent the community's best remaining examples of turn-of-the century architectural styles. (Note: Map of District and structures in "Inventories.")

**Private street.** An accessway, which is under private ownership.

**Protected Water Feature:** A wetland identified in the West Linn Local Wetlands Inventory or any major or minor open channel drainageway identified by the most recently adopted West Linn Surface Water Management Plan, except for small man-made open roadside drainage swales in residential areas , or any drainage course identified by the West Linn Riparian Corridor inventory as significant (not including the Willamette or Tualatin Rivers). (ORD. 1545)

**Public right-of-way.** The area between the boundary lines of a street, pedestrian way or bicycle path.

**Quasi-judicial action.** An action which involves the application of adopted policy to a specific development application or amendment, as provided in this chapter.

**Recreational vehicle.** A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. (ORD. 1463)

**Remodeling:** The alteration of the physical condition of more than 50% of the floor area of an existing structure. Remodeling does not include normal maintenance or repair. (ORD. 1544)

**Replacement:** The removal of an existing structure and placement of a new

structure on the site of the removed structure or elsewhere on the same lot. For purposes of this definition, diminution of an existing structure by more than 50% of its floor area shall constitute its removal. (ORD. 1544)

**Restoration.** The process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function, and/or diversity to that which occurred prior to impacts caused by human activity. (ORD. 1463)

**Review.** A request that a final decision by the initial approval authority be considered by a higher authority only on the basis of the record as set forth in Section 99.020 made before the initial hearing body.

**Riparian.** Those areas associated with streams, lakes, and wetlands where vegetation communities are predominately influenced by their association with water. (ORD. 1463)

**Riparian Corridor:** Any area within and adjacent to a natural drainageway within West Linn (not including lands adjacent to the Willamette or Tualatin Rivers) that has been identified as significant by the West Linn Riparian Corridor Inventory. (ORD. 1545)

**Roadway.** The portion of a street right-of-way developed for vehicular traffic.

**Rough Proportionality.** The allowed relationship between an exaction imposed to comply with a city code standard and the impact of the proposed development that is alleviated through imposition of the exaction. The measure of rough proportionality involves the following steps:

- A. Identify the public problem caused or exacerbated by the proposed development which the proposed exaction is designed to address.
- B. Measure the impact of the proposed development upon the identified public problem.
- C. Analyze how the proposed exaction solves or alleviates the identified public problem.
- D. Analyze the proportionality of the proposed exaction to that part of the problem created or exacerbated by the proposed development.

**Routine repair and maintenance.** Activities directed at preserving an existing allowed use or facility, without expanding the development footprint or site use. (ORD. 1463)

**Secondary structures.** Structures built before 1925 which retain many original architectural features, but not classified as primary on the Inventories Map of the Willamette Historic District are identified as "secondary" contributing. (ORD. 1172)

**Sediment.** Any organic or mineral material that is in suspension, is being transported or has been moved from its site of origin by water, wind, or gravity as a product of erosion.

**Sidewalk.** A pedestrian walkway with permanent surfacing built to city standards.

**Sign.** Any description, words, numbers, or illustration, which is affixed directly or indirectly upon a building, vehicle, structure, or land, which directs attention to a product, place, activity, person, institution, or business, and which is visible from any public street, waterway, alley, or private area open to public vehicular travel. National flags and flags of political subdivisions shall not be construed as signs. (ORD. 1463)

**Slope.** Measurement of the deviation of a non-level land feature from the horizontal, measured as a percent calculated as maximum rise divided by minimum horizontal run. Example: a rise of one foot divided by a run of 10 feet equals slope of 10%. Slope shall be measured in intervals corresponding with slope analysis requirements in the Community Development Code. Slope shall be measured at a right angle from the mapped elevation interval lines. (ORD. 1501)

**Start of construction.** The first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings, or any work beyond the stage of excavation. Permanent construction does not include land preparation such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations, or the erection of temporary forms;

nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure, or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home subdivision, "start of construction" means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home subdivisions, "start of construction" is the date on which the manufactured home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

**Story.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than 6 feet above grade as defined herein for more than 50 percent of the total perimeter, or is more than 12 feet above grade as defined herein at any point, such basement or unused under-floor space shall be considered as a story.

**Story, first.** The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor shall be classified as a first story, provided such floor level is not more than 4 feet below grade, as defined herein, for more than 50 percent of the total perimeter, or more than 8 feet below grade, as defined herein, at any point.

**Story, half.** A story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

**Street.** A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, and the placement of utilities and including the terms, "road," "highway," "lane," "avenue," "alley,"

"place," "court," "way," "circle," "drive," or similar designations.

**Stripping.** Any activity which disturbs vegetated or otherwise stable soil surface, including clearing and grubbing operations.

**Structure.** Something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure, and platforms, walks, and driveways more than 30 inches above grade and not over any basement or story below. (ORD. 1211)

**Subdivide land.** To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

**Subdivision.** Either an act of subdividing land or an area or a tract of land subdivided as defined in this chapter.

**Substantial construction.** An approved application shall have undertaken substantial construction when any of the following have taken place; utilities have been installed to serve the project; approved grading has been undertaken representing at least 25 percent of all the required preliminary grading; foundation excavation has occurred; foundation or building construction has occurred; street improvements are being installed; or a major physical improvement, required as part of the approved permit, has clearly begun. Substantial construction is not satisfied by simply having approved pre-construction plans or building permits, or by site clearing and grubbing. Actual physical improvements as identified above must have taken place. (ORD. 1408)

**Substantial damage.** Within the Flood Management Area, means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before damaged occurred. (ORD.1565)

**Substantial improvement.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the

purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or, b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Temporary use.** A use which, by its nature, will last under two years. Examples of temporary uses are uses associated with the sale of goods for a specific holiday, activity or celebration, uses associated with construction, and seasonal uses. The temporary uses provisions do not apply to businesses seeking a temporary or interim location. (ORD. 1463)

**Top of bank.** The same as "bankful stage." (ORD. 1463)

**Transition area.** The land around the edge of the natural resource area that constitutes a buffer, or transition, to protect the resource from conflicting development and activities. (ORD. 1463)

**Type I lands.** Lands that have severe constraints that preclude the use of standard development techniques and technical criteria. Type I lands exist in the following areas:

Slope: All lands with 35 percent or more slopes.

Drainage: All lands within the 100 year flood plain.

Geological Hazard: All existing or known landslide areas. (ORD. 1463)

**Type II lands.** Lands which have constraints that are sufficient to preclude most standard types of development. Constraints in these areas generally do not constitute a health or safety hazard, but require the use of non-standard technical design criteria. Type II lands exist in the following areas:

Slope: All lands with slopes between 25 and 35 percent.

Drainage: All drainage courses.

Geology: All known mineral and aggregate deposits. (ORD. 1463)

**Type III lands.** These lands are considered within the major portion of the City’s developable lands. Standard development criteria can be applied through normal implementation measures. Type III lands have slopes between 15 and 25 percent. (ORD. 1463)

**Type IV lands.** These lands are considered to have few, if any, constraints to development and are within the major portion of the City’s developable lands. Normal development standards will apply in these areas. Type IV lands have slopes between 0 and 15 percent. (ORD. 1463)

**Unlisted use.** A use that is not listed as either a use permitted outright or a conditional use in a particular zone.

**Use.** The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

**Variance.** A discretionary decision to permit modification of the terms of an implementing ordinance based upon specific findings delineated in the Community Development Code. (ORD. 1463)

**Water Resource Area:** Any area that consists of a wetland identified in the West Linn Local Wetlands Inventory and the required transition and setback area around the wetland pursuant to CDC Chapter 32, or any major or minor open channel drainageway identified by the most recently adopted West Linn Surface Water Management Plan and the required transition and setback area around the major or minor open channel pursuant to CDC Chapter 32, except for small man-made open roadside drainage swales in residential areas, or any riparian corridor (not including lands adjacent to the Willamette or Tualatin Rivers) and the required transition and setback area for the riparian corridor pursuant to CDC Chapter 32. (ORD. 1545)

**Water Resource Area Transition and Setback Area:** The land adjacent to the protected water feature that constitutes a buffer, or transition, to protect the resource from conflicting development and activities. (ORD. 1545)

**Wetlands.** Those areas inundated or saturated by surface or ground water at a

frequency and duration sufficient to support and, under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. (ORD. 1463)

**Yard.** An open space on a lot. (See Figure A below.)

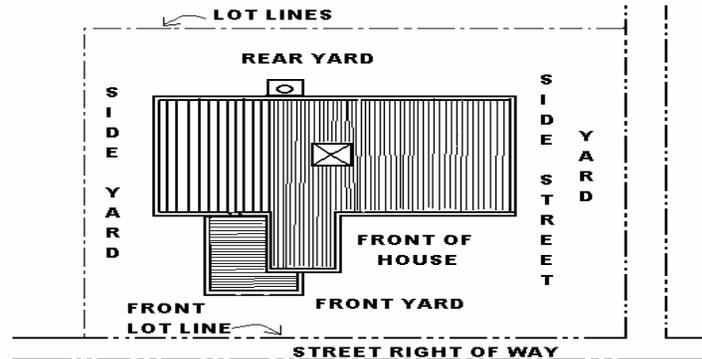


Figure A (ORD. 1401)

**Yard, front.** A yard between side lot lines and measured horizontally at right angles to the front lot line from the lot line to the nearest point of the building. In the case of flag lots, the front yard may either face an adjacent street right-of-way or the access driveway along the flag lot stem. The front of the house or dwelling faces the front yard. (See Figure B.)

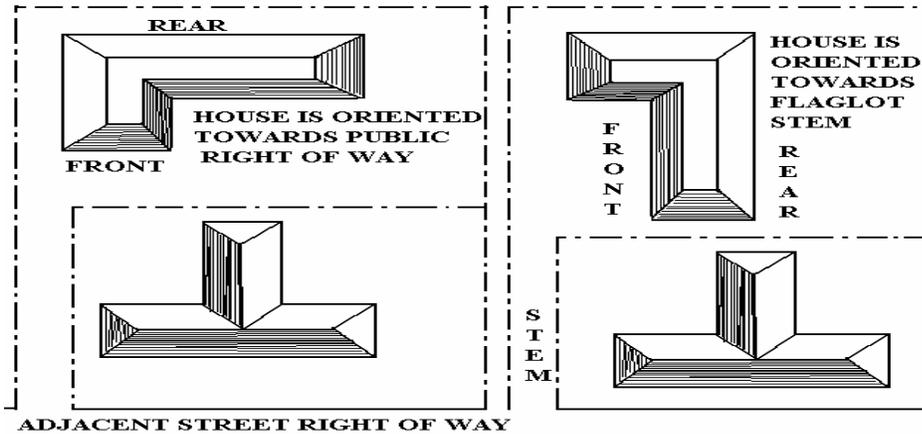


Figure B (ORD. 1401)

**Yard, rear.** A yard between side lot lines or between a street side yard and opposite side lot line and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a main building. The rear of the house or dwelling faces the rear yard. In the case of corner lots, the rear yard is not always on the opposite side of the house or dwelling as the front yard. Please see definition for "front on corner lot." (See Figure A.) (ORD. 1401)

**Yard, side.** A yard between the front and rear yard measured horizontally and at right angles from the side lot line to the nearest point of the building. The side of the house or dwelling faces the side yard. (See Figure A.) (ORD. 1401)

**Yard, side street.** For dwellings or homes on corner lots, this is the yard on the side of the house that faces a street right-of-way and does not include the front of the house or front yard. (See Figure A.) (ORD. 1401)

(AMENDED PER ORD. 1501; 4/04. ORD. 1538; 6/06; ORD. 1544 2/07; ORD 1545; 2/07; ORD 1565 4/08)

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## **03.000 DEFINITIONS - USES**

### **03.010 INTERPRETATION**

For the purpose of this Code, certain terms or words used herein shall be interpreted as follows.

1. The word "shall" is mandatory, the word "may" is permissive.
2. The words "used" or "occupied" shall include the words intended, designed, or arranged to be used or occupied.
3. The word "lot" includes the future tense, the singular number includes the plural, and the plural number includes the singular.

### **03.030 SPECIFIC WORDS AND TERMS**

For the purpose of these regulations, the following terms or words are defined as follows.

**USE TYPES – RESIDENTIAL:** Residential use types include the occupancy of living accommodations on a wholly or primarily non-transient basis.

**Children's day care.** Services or facilities authorized, certified, or licensed by the State for children's day care of six or more children, for a period not to exceed 12 hours per day. Children's day care facilities with less than six children is a home occupation. See Chapter 37.

**Duplex residential units.** Two dwelling units placed so that some structural parts are in common and are located on a single lot or development site.

(ORD. 1408)

**Family day care.** Any family day care provider who provides care in the home of the provider to fewer than 13 children, including children of the provider, regardless of full-time or part-time status.

**Group residential.** The residential occupancy of living units by groups of more than five persons who are not related by blood, marriage, or adoption, and where communal kitchen/dining facilities are provided. Typical uses include occupancy of retirement homes, boarding houses, cooperatives, and halfway houses, but excluding residential facility and residential home as specified below.

(ORD. 1308)

**Home occupation.** Any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident’s dwelling unit. Standards for home occupations are set forth in Chapter 37 of this Code. (ORD. 1463)

**Manufactured home.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles. (ORD. 1463)

**Manufactured home park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (ORD. 1463)

**Multiple family residential units.** A structure containing three or more attached dwelling units in any vertical or horizontal arrangement. (ORD. 1408)

**Residential facility.** A facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with the treatment or training or a combination thereof, for 6 to 15 individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility. (ORD. 1308)

**Residential home.** A home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training, or a combination thereof for five or fewer individuals who need not be related. This definition includes facilities categorized as “adult foster homes” under ORS 443.700 to 443.825. Staff persons required to meet the Department of Human Resources licensing

requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home. (ORD. 1463)

**Senior citizen/handicapped housing facilities.** Living facilities which provide living units, congregate dining, recreational facilities and other services and requiring 24 hour staffing assistance.

**Single-family attached residential units.** Two dwelling units attached side by side with some structural parts in common at a common property line on separate lots.

**Single-family detached residential units.** One dwelling unit, freestanding and structurally separated from other dwelling units or buildings, located on a lot.

**USE TYPES - CIVIC:** The performance of utility, educational, recreational, cultural, protective, governmental, and other uses which are strongly vested with public or social importance.

**Community recreation.** Recreational, social, or multi-purpose uses typically associated with parks, play-fields, or golf courses. (ORD. 1377)

**Cultural exhibits and library services.** Museums, exhibition of objects in one or more of the arts and sciences, gallery exhibition or works of art, or library collection of books, manuscripts, etc., for study and reading.

**Hospitals.** An institution where the ill or injured may receive medical, surgical or psychiatric treatment; and nursing, food and lodging during their stay.

**Lodge, fraternal, and civic assembly.** Meetings and activities primarily conducted for the members of a particular group. Excluded from this use types are uses classified as "group residential," "residential care facilities," "senior centers," and "transient lodging." Typical uses include meeting places for civic clubs, community centers, lodges, or fraternal or veteran organizations.

(ORD. 1411)

**Parking facilities.** Parking services involving garages and lots, and may exclude required parking lots within the same lot of record of a particular development or use.

**Postal services.** Mailing services and processing as traditionally operated or leased by the United States Postal Service, United Parcel Service and other postal services. (ORD. 1226)

**Public safety facilities.** Providing protection pursuant to fire, life, and safety code sections together with the incidental storage and maintenance of necessary vehicles. Typical uses include fire stations, police stations, and ambulance services.

**Public support facilities.** Public services that deal directly with citizens, to include meeting and hearing rooms, together with incidental storage and maintenance of necessary vehicles, and excludes commercial use type, "professional and administrative services." Typical use types are associated with governmental offices. (ORD. 1378)

**Recycle collection center.** A place where recyclable materials are deposited by the residents and sorted for transport to processing plants. Yard debris depots shall also fall into this classification. (Yard debris is organic material: leaves, grass clippings, weeds, etc.) (ORD. 1339)

**Religious institutions.** A building constructed or utilized primarily for worship, together with its accessory uses, and buildings where persons regularly assemble for religious worship and which is controlled by a religious body organized to sustain worship. (ORD. 1378)

**Schools.** Public, private or parochial place or institution for teaching or learning. Typical uses include nursery, elementary, junior and senior high schools and related uses; excluding trade and business schools and colleges.

**Senior Center.** Facility that provides meetings and activity space primarily for senior citizens. Ancillary uses that support the senior center are also permitted. (ORD. 1411)

**Trailhead.** A trail access point as identified in the Comprehensive Plan. The purpose of the trailhead is to provide access to a trail and trail information, and to provide parking for trail users that don't live in the immediate area of the trail, or choose to arrive by automobile. (ORD. 1391)

**Urgent care.** A facility which provides emergency medical care on a non-appointment basis, but does not have overnight sleeping facilities.

(ORD. 1463)

**Utilities.** Services and utilities which can have substantial visual impact on an area. Such uses may be permitted in any zoning district when the public interest supercedes the usual limitations placed on land use and transcends the usual restraints of the district for reasons of necessary location and community-wide interest. There are two classes of utilities--major and minor.

**Utility, major.** A utility which may have a significant impact on the surrounding uses or the community in terms of generating traffic or creating noise or visual effects and includes utility, substation, pump station, water storage tank, sewer plant, or other similar use essential for the proper function of the community. (1408)

**Utility, minor.** A utility which has a minor impact on the surrounding uses or on the community in terms of generating traffic or creating noise or visual effects and includes the overhead or underground electric, telephone or cable television poles and wires, the underground gas and water distribution systems and the drainage or sewerage collection systems or other similar use essential for the proper functioning of the community.

**USE TYPES - COMMERCIAL:** The distribution and sale or rental of goods and the provision of services other than those classified "civic uses."

**Agriculture.** The tilling of the soil, the raising of crops, dairying and/or animal husbandry, but not including the keeping or raising of fowl, pigs, or fur-bearing animals unless such is clearly incidental to the principal use of the property for the raising of crops.

**Agricultural sales.** Sale from the premises of feed, grain, fertilizers, pesticides, and similar goods. Typical uses include nurseries, hay, feed, and grain stores.

**Agricultural services.** Establishments or places of business engaged in the provision of agriculturally related services with incidental storage on lots other

than where the service is rendered. Typical uses include tree and lawn service firms. (ORD. 1226)

**Amusement enterprise.** Establishments or places primarily engaged in the provision of entertainment or recreation which require less personal physical activity than those uses included in indoor participant sports and recreation. Typical uses include: billiard parlors, bowling alleys, arcades, and electronic game room facilities or movie theaters.

**Animal sales and services.** Establishments or places of business primarily engaged in animal related sales and services. The following are animal sales and services use types:

**Animal sales and services, grooming.** Grooming of dogs, cats, and similar small animals. Typical uses include dog bathing and clipping salons or pet grooming shops.

**Animal sales and services, kennels.** Kennel services for dogs, cats, and similar small animals. Typical uses for a business venture include boarding kennels or dog training centers. Kennels will be further defined as any property where more than four dogs are kept, whether such animals are kept as personal property of the property owner or as a business venture, is deemed to be a kennel. A person may have more than four dogs and not be deemed a kennel, if one of the dogs is a female with a litter under the age of six months. (ORD. 1270)

**Animal sales and services, veterinary (large animals).** Veterinary services for large animals. Typical uses include animal hospitals for large animals (horses, sheep) or veterinary hospitals for large animals.

**Animal sales and services, veterinary (small animals).** Veterinary services for small animals. Typical uses include pet clinics, dog and cat hospitals, or animal hospitals for small animals.

**Automotive and equipment.** Establishments or places of business primarily engaged in motorized vehicle related sales or services. The following are automotive and equipment use types:

**Automotive and equipment, cleaning.** Washing and polishing of automobiles. Typical uses include auto laundries or car washes.

**Automotive and equipment, fleet storage.** Fleet storage of vehicles used regularly in business operation and not available for sale or long term storage of operating vehicles. Typical uses include taxi fleet, mobile-catering truck storage, or auto storage garages.

**Automotive and equipment; repairs, heavy equipment.** Repair of trucks, etc., as well as the sale, installation, or servicing of truck or automotive equipment and parts together with body repairs, painting, and steam cleaning. Typical uses include truck transmission shops, body shops, or motor freight maintenance groups.

**Automotive and equipment; repairs, light equipment.** Repair of automobiles and the sale, installation, and servicing of automobile ipment and parts but excluding body repairs and painting. Typical uses include muffler shops, auto or motorcycle repair garages, or auto glass shops.

**Automotive and equipment; sales/rentals, heavy equipment.** Sale, retail or wholesale, and/or rental from the premises of heavy construction equipment and trucks together with incidental maintenance. Typical uses include boat dealers, heavy construction equipment dealers, or truck dealers.

**Automotive and equipment; sales/rentals, light equipment.** Sale, retail or wholesale, and/or rental from the premises of autos, non-commercial trucks, motorcycles, motorhomes, and trailers with less than a 10,000 gross cargo weight together with incidental maintenance. Typical uses include automobile dealers, car rental agencies, or recreational vehicle sales and rental agencies.

**Automotive and equipment; storage, recreational vehicles and boats.** Storage of recreational vehicles and boats. Typical uses include the collective storage of personal recreational vehicles or boats.

**Building maintenance services.** Establishments primarily engaged in the provision of maintenance and custodial services. Typical uses include janitorial, landscape maintenance, or window cleaning services.

**Business equipment sales and services.** Establishments or places of business primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional, and service establishments to the firms themselves rather than to individuals, but excludes automotive, construction, and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops, or hotel equipment and supply firms.

**Business support services.** Establishments primarily engaged in the provision of service of a clerical, employment, protective, or minor processing nature to firms rather than individuals and where the storage of goods other than samples is prohibited. Typical uses include: secretarial services, telephone answering services, or blueprint services. (ORD. 1226)

**Communications services.** Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as "utilities." Typical uses include: television studios, telecommunication service centers, or telegraph service offices.

**Construction sales and services.** Establishments or places of business primarily engaged in construction activities and incidental storage on lots other than construction sites as well as the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures. Typical uses include: building materials stores, tool and equipment rental or sales, and building contracting/construction offices.

**Consumer repair services.** Establishments primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding "automotive and equipment" use types. Typical uses include: appliance repair shops, apparel repair firms, musical instrument repair firms and small repair shops.

**Convenience sales and personal services.** Small neighborhood oriented retail businesses (retail commercial and personal services) which provide for the daily needs of nearby residents. It includes uses such as grocery stores, drug stores, laundromats, dry cleaners, barber shops and beauty salons.

**Drive through restaurant.** An eating and drinking establishment organized so that motorists may order and pick up orders without the necessity of leaving the vehicle.

**Eating and drinking establishments.** Establishments or places of business primarily engaged in the sale of prepared food and beverages for on-premise consumption. Typical uses include: fast order food establishments with and without drive-up facilities and sit-down eating establishments, taverns, bars and lounges. (ORD. 1226)

**Extended-hour businesses.** Businesses which are open to the public 17 or more hours a day on any given day of the week, or open between midnight and 6 a.m., including, but not limited to: "eating and drinking establishments," "convenience sales and personal services," "drive-through restaurants," "amusement enterprises," "food and beverage retail sales," and "general retail sales." (ORD. 1402)

**Financial and insurance.** Establishments primarily engaged in the provision of financial, insurance, or securities brokerage services. Typical uses include: banks, savings and loans, or insurance agencies.

**Food and beverage retail sales.** Establishments or places of business primarily engaged in the retail sale of food and beverages for home consumption. Typical uses include: groceries, delicatessens, or liquor stores, and excludes "eating and drinking establishments."

**General retail services.** The sale or rental of commonly used goods, and merchandise for personal or household use, but excludes those classified as "agricultural sales," "animal sales and services," "automotive and equipment," "business equipment sales and service," "construction sales and services," "food and beverage retail sales," and "vehicle fuel sales." Typical uses include: department stores, apparel stores, furniture stores, pet stores or book stores.

**Heliport.** A place specially designed and used for the landing and take off of helicopters.

**Horticulture.** The cultivation of plants, garden crops, trees and/or nursery stock.

**Household hazardous waste depot.** A depot intended to receive, classify then transfer elsewhere, hazardous wastes that are typically found in a household such as paint, motor oil, household cleaners and solvents, etc.

(ORD. 1339)

**Laundry services.** Establishments primarily engaged in the provision of laundering, dry cleaning, or dyeing services other than those classified as "personal services." Typical uses include: commercial laundry agencies, diaper services, or linen supply services, but excluding laundromats and dry cleaners.

**Medical and dental services.** Establishments primarily engaged in the provision of personal health services ranging from prevention, diagnosis and treatment (including outpatient surgery), or rehabilitation services provided by physicians, dentists, nurses, and other health personnel as well as the provision of medical testing and analysis services, but excludes those classified as any civic use or group residential use types. Typical uses include: medical offices, eye care offices, dental offices and laboratories, or health maintenance organizations.

(ORD. 1463)

**Nursery.** The propagation of trees, shrubs, vines or flowering plants for transplanting, sale, or for grafting or budding; planting of seeds or cuttings; grafting and budding one variety on another; spraying and dusting of plants to control insects and diseases, and buying and selling the above plant stock at wholesale or retail. Seasonal labor may be employed. The term "nursery" contemplates the sale of products of the nursery. The conduct of a nursery business presumes parking places for these functions. However, the use does not include the business of manufacturing and selling products composed of raw materials purchased off the premises. Plant related products manufactured elsewhere may be resold on the premises.

**Nursing home.** A home, place or institution, or part thereof, in which convalescent and/or chronic care is rendered to two or more patients in exchange

for compensation. Convalescent and/or chronic care includes, but is not limited to, the procedures commonly employed in nursing and caring for the sick; persons who are acutely ill or are surgical or maternity cases are excluded; qualified personnel and a consulting physician are available at all times; and isolation facilities are provided.

**Participant sports and recreation.** Establishments or places primarily engaged in the provision of sports or recreation by and for participants. Any spectators would be incidental and on a non-recurring basis. The following are participant sports and recreation use types: (ORD. 1226)

**Participant sports and recreation, indoor.** Those uses conducted totally within an enclosed building. Typical uses include: indoor tennis courts, racketball courts, swimming pools, or physical fitness centers.

**Participant sports and recreation, outdoor.** Those uses conducted in open facilities. Typical uses include: driving ranges, miniature golf courses, tennis courts or swimming pools.

**Personal service facilities.** Establishments primarily engaged in the provision of informational, instructional, personal improvement, and similar services of non-professional nature. Typical uses include: photography studios, driving schools and trade schools, or reducing salons.

**Professional and administrative services.** Offices of private firms or organizations which are primarily used for the provision of professional, executive, management, or administrative offices, legal offices, architectural or engineering firms, or real estate firms.

**Recycling collection center.** A facility where glass, cans, and papers are collected for the purpose of being transferred to a paper salvage or recycling facility.

**Research services.** Establishments primarily engaged in research of an industrial or scientific nature which is generally provided as a service or which is conducted by and for a private firm, but excludes medical testing and analysis. Typical uses include: electronics research laboratories, environmental research and development firms, or pharmaceutical research labs.

**Scrap operations, salvage.** Places of business primarily engaged in the storage, sale, dismantling, or processing of used or waste materials which are not intended for reuse in their original form. Typical uses include automotive wrecking yard, junk yards, or paper salvage yards. (ORD. 1226)

**Super stores.** Large box-like or monolithic retail and associated commercial use structures of 40,000 square feet or more in size. Stores over 40,000 square feet that are broken up into separate and distinct architectural buildings or separate and distinct elements, but still under the same ownership or operated by the same company, are also defined as super stores. (ORD. 1463)

**Transient lodgings.** Establishments primarily engaged in the provision of lodging services on a temporary basis with incidental food, drink, and other sales and services intended for the convenience of guests. Typical uses include hotels, motels, or bed and breakfast houses.

**Transportation facilities** – Facilities and amenities that are used for transporting people and goods. Typical uses include streets, highways, sidewalks, transit stops and stations, bicycle and pedestrian facilities, bike lanes, and operation, maintenance, preservation, and construction of these facilities. There are two classifications of transportation facilities (Type I and Type II):

1. **Transportation facilities (Type I)** are those which are designated in the adopted TSP or are part of an approved, active development order. Type I facilities are Permitted Uses in all zoning districts.

2. **Transportation facilities (Type II)** are those which are NOT designated in the adopted TSP or part of an approved, active development order. Type II transportation facilities are allowed in all zoning districts subject to Conditional Use approval and the additional criteria of Chapter 60.090 (ORD 1584)

**Vehicle fuel sales.** Establishments or places of business primarily engaged in the retail sale, from the premises, of petroleum products with incidental sale of tires.

**Wireless communication facility (WCF).** An unstaffed facility for the transmission or reception of radio frequency (RF) signals, usually consisting of an equipment shelter, cabinet, or other enclosed structure containing electronic

equipment, a support structure, antennas, or other transmission and reception devices. It may also include stealth designs as defined in Section 57.020.

(ORD. 1408)

**USE TYPES - INDUSTRIAL:** Industrial use types include the on-site production of goods by methods not commercial, agricultural, or extractive in nature.

**Light industrial:**

**Manufacturing of finished products.** The manufacturing of finished products from previously prepared material (excluding raw materials).

**Packaging and processing.** The production, processing, assembling, packaging, or treatment of products from previously processed materials; or production, processing, assembling, and packaging of finished products from previously prepared materials.

**Wholesale, storage, and distribution.** Establishments or places of business primarily engaged in wholesaling, storage, distribution, and handling of materials and equipment other than live animals and plants. The following are wholesaling, storage, and distribution use types:

**Wholesale, storage, and distribution, mini-warehouses.** Storage and warehousing service within a building(s) primarily for individuals to store personal effects and by businesses to store materials for operation of an industrial or commercial enterprise located elsewhere. Incidental uses in a mini-warehouse may include the repair and maintenance of stored materials by the tenant, but in no case may storage spaces in a mini-warehouse facility function as an independent retail, wholesale business, or service use.

Spaces shall not be used for workshops, hobbyshops, manufacturing, or similar uses and human occupancy of said spaces shall be limited to that required to transport, arrange, and maintain stored materials.

**Wholesaling, storage and distribution, light.** Wholesaling, storage, and warehousing services within enclosed structures. Typical uses include wholesale distributors, storage warehouses, or moving and storage firms.

**Heavy industrial:**

**Manufacturing of finished products.** Manufacturing, processing, or assembling of semi-finished or finished products from raw materials.

**Wholesaling, storage and distribution, heavy.** Open-air storage, distribution, and handling of materials and equipment. Typical uses include monument or stone yards, or grain elevators.

(ORD. 1463; 10/00; ORD 1538; 12/08)

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## ZONING PROVISIONS

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## ZONING PROVISIONS

### 05.000 GENERAL

#### 05.010 PURPOSE

The purpose of the zoning provisions of this Code is: to implement the Comprehensive Plan; to provide rules, regulations, and standards governing the use of land and structures; to carry out the development pattern and plan of the City; to promote the public health, safety, and general welfare; to lessen congestion in the streets, secure safety from fire, flood, pollution, and other dangers; to provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage, and drainage; and to encourage the conservation of energy resources.

#### 05.020 CLASSIFICATIONS OF ZONES

All areas within the corporate limits of the City of West Linn are hereby divided into zone districts, and the use of each tract and ownership of land within the corporate limits shall be limited to those uses permitted by the zoning classification applicable to each such tract as hereinafter designated. The zoning districts within the City of West Linn are hereby classified and designated as follows:

Zoning District	Zone Designation	Dwelling Units Per Net Acre	Lot Size Per Unit In Square Feet
Low Density Single Family Residential detached	R-40 (ORD. 1321)	1.1	40,000
Single Family Residential detached	R-20	2.18	20,000
Single Family Residential detached	R-15	2.9	15,000
Single Family Residential detached	R-10	4.35	10,000

Zoning District	Zone Designation	Dwelling Units Per Net Acre	Lot Size Per Unit In Square Feet
Single Family Residential detached	R-7	6.2	7,000
Medium Density Residential	R-5	8.7	5,000
	R-4.5	9.68	4,500
Medium High Density	R-3	14.5	3,000
	R-2.1	20.74	2,100
<b>Commercial</b>			
Neighborhood Commercial	NC		
General Commercial	GC		
Office-Business Center	OBC		
<b>Industrial</b>			
Campus Industrial	CI		
General Industrial	GI		
<b>Overlay Zones</b>			
Planned Unit Development	PUD		
Historic District	HD		
Historic Landmark	HL	(ORD. 1377)	
Flood Management Area	FMA		
Willamette River Greenway	WRG		
Tualatin River Protection	TRP	(ORD. 1291)	
Wetland and Riparian Area	WRA		
Willamette Falls Drive			
Commercial Design Standards	WFC	(ORD. 1321)	

(ORD. 1463)

**05.030 ZONING MAP**

A. The boundaries of each of the foregoing districts and the zoning classification and use of each tract in each of said zoning districts is hereby prescribed to coincide with the identifying zone classifications shown on the map entitled "West Linn Zoning Map," dated with the effective date of this Code and signed by the Mayor and City Recorder and hereafter referred to as the "Zoning Map" and said map by this reference is

made a part of this Code. A certified print of the adopted Zoning Map or map amendments shall be maintained in the office of the Planning Department as long as the code remains in effect.

- B. Each lot, tract, and parcel of land, or portion thereof, within the zone boundaries as designated and marked on the Zoning Map, is hereby classified, zoned, and limited to the uses as hereinafter specified and defined for the applicable zone classification.
- C. Amendments to the City Zoning Map may be made in accordance with the provisions of Chapters 98 and 99 of this Code. Copies of all map amendments shall be dated with the effective date of the document adopting the map amendment and shall be maintained without change, together with the adopting documents, on file in the Planning Department. The Planning Director shall maintain in his office, and available for public inspection, an up-to-date copy of the City Zoning Map to be revised so that it accurately portrays changes of zone boundaries.
- D. The Planning Director shall maintain on a set of zoning maps, an index indicating the case number, type of action, and location of actions taken under this Code.

**05.040**

**DETERMINATION OF ZONING BOUNDARIES**

Where due to the scale, lack of scale, lack of detail, or illegibility of the City Zoning Map or due to any other reason, there is uncertainty, contradiction, or conflict as to the intended location of district boundary lines, determination of zoning boundaries shall be determined by the Planning Director in accordance with the following standards:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be

construed as following city limits.

- D. Boundaries indicated as approximately following river, stream, and/or drainage channels shall be construed as following river, stream, and/or drainage channels.
- E. Whenever any street is lawfully vacated, and when the lands within the boundaries thereof attached to and become a part of lands adjoining such street, the lands formerly within the vacated street shall automatically be subject to the same zoning district designation that is applicable to lands to which same attaches.

**05.050 REVIEW OF ANNEXED LAND FOR SOLID WASTE FACILITY SITING  
(ORD. 1442)**

Within a one-year period following annexation of land into the City, the City will determine whether or not the annexed land, where the land is designated for commercial and industrial use, includes appropriate areas for siting solid waste facilities. If commercial or industrial designated land is annexed to the City that is appropriate for siting solid waste facilities, the City will then notify Metro of the need to update this agreement.

(AMENDED PER ORD. 1463; 10/00)

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## **LOW DENSITY**

### **08.000 SINGLE FAMILY RESIDENTIAL DETACHED, R-40**

#### **08.010 PURPOSE**

The purpose of this district is to provide for development where there are some available services, but the services will not support the development of land at more urban densities. The intent of the zone is to allow development at a level based on the existing service level, but in a manner which does not adversely impact environmentally sensitive areas. This zone may also be applied to areas where public harm to wildlife habitats may result if developed at a higher density.

#### **08.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 08.030, is a use which requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions, Sections 08.030, is a use for which approval will be granted provided all the conditions are satisfied; and
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required;
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. The approval of a conditional use (Section 08.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.

D. The following code provisions may be applicable in certain situations:

1. Chapter 65, Non-conforming Uses in Structures.
2. Chapter 66, Non-conforming Structures.
3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**08.030 PERMITTED USES**

The following uses are permitted outright in this zone:

1. Community recreation.
2. Family day care.
3. Public support facilities.
4. Residential home. (ORD. 1500)
5. Single family detached residential unit.
6. Utilities, minor.
7. Manufactured housing. (ORD. 1354)
8. Transportation facilities (Type I) (ORD.1584)

**08.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34.

**08.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37. (ORD. 1565)
2. Sign, subject to the provisions of Chapter 52.
3. Temporary use subject to the provisions of Chapter 35.
4. Agricultural or horticultural use, provided that no retail or wholesale business sales office is maintained on the premises and provided that poultry or livestock, other than normal household pets, shall not be permitted within 100 feet of any residence other

than a dwelling on the same lot, nor on a lot less than one acre or which has less than 20,000 feet per head of livestock.

**08.060            CONDITIONAL USES**

The following are conditional uses which may be allowed in this zoning district subject to the provisions of Chapter 60, Conditional Uses.

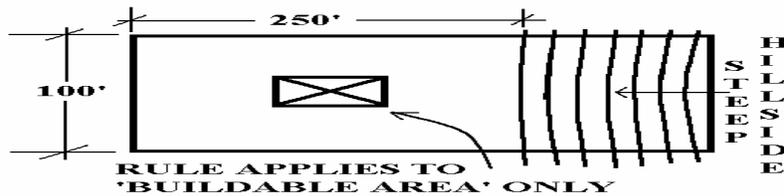
1. Cultural exhibits and library services.
2. Lodge, fraternal and civic assembly.
3. Public safety facilities.
4. Recycle collection center. (ORD. 1584)
5. Religious institution.
6. Schools.
7. Utilities, major.
8. Aggregate extraction except aggregate extraction on submersible land subject to valid permits from the U.S. Army Corp of Engineers, and the Oregon State Land Board. (ORD. 1565)
9. Transportation facilities (Type II) – see Chapter 60.090 for additional approval criteria. (ORD. 1538)

**08.070            DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

Except as may be otherwise provided by the provisions of this Code, the following are the requirements for uses within this zone:

1. The minimum lot size shall be 40,000 square feet for a single family detached unit.
2. The minimum front lot line length or the minimum lot width at the front lot line shall be 150 feet.
3. The average minimum lot width shall be 150 feet.
4. The lot depth comprising non Type I or II lands shall be less than two and one-half times the width, and more than an average depth

of 90 feet. (See diagram below.) (ORD. 1377)



5. The minimum yard dimensions or minimum building setback areas from the lot line shall be:
  - a. For the front yard, 30 feet, except for steeply sloped lots where the provisions of Section 41.010 shall apply.
  - b. For an interior side yard, 10 feet.
  - c. For a side yard abutting a street, 30 feet.
  - d. For a rear yard, 30 feet.
6. The maximum building height shall be 40 feet, except for steeply sloped lots in which case the provisions of Section 41.000 shall apply.
7. The maximum lot coverage shall be 25 percent.
8. The minimum width of an accessway to a lot, which does not abut a street or a flag lot, shall be 20 feet.
9. The floor area ratio shall be .45. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of .30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a “non-conforming structures” permit under CDC Chapter 66.
10. The sidewall provisions of CDC Chapter 43 shall apply.

**08.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in Section 60.070(1) and (2).

**08.090 OTHER APPLICABLE DEVELOPMENT STANDARDS**

A. The following standards apply to all development including permitted uses:

1. Chapter 34, Accessory Structures.
2. Chapter 36, Temporary Uses.
3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
4. Chapter 40, Building Height Limitations and Exceptions.
5. Chapter 41, Structures in Steep Lots, Exceptions.
6. Chapter 42, Clear Vision Areas.
7. Chapter 44, Fences and Screening of Storage Areas.
8. Chapter 46, Off-street Parking and Loading.
9. Chapter 48, Access.
10. Chapter 52, Signs.
11. Chapter 54, Installation and Maintenance of Landscaping.

B. The provisions of Chapter 55, Design Review, apply to all uses except detached single-family dwellings, residential homes and residential facilities.

(AMENDED PER ORD. 1500; 12/03; ORD. 1538 6/06; ORD. 1565 4/08; ORD. 1584 12/08)



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## **LOW DENSITY**

### **09.000 SINGLE FAMILY RESIDENTIAL DETACHED, R-20**

#### **09.010 PURPOSE**

The purpose of this district is to provide for development flexibility at a range of densities where urban services are available. The intent of the zone is to allow development at a level which recognizes and preserves natural features of the area. This zone may also be applied to areas where public harm to wildlife habitats may result if developed at a higher density. (ORD.1308)

#### **09.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 09.030, is a use which requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions, Sections 09.030, is a use for which approval will be granted provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. The approval of a conditional use (Section 09.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- D. The following code provisions may be applicable in certain situations:
  - 1. Chapter 65, Non-conforming Uses in Structures.
  - 2. Chapter 66, Non-conforming Structures.
  - 3. Chapter 67, Non-conforming Uses of Land.

4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**09.030 PERMITTED USES**

The following are uses permitted outright in this zoning district:

1. Community recreation.
2. Family day care. (ORD. 1226)+
3. Residential home. (ORD. 1500)
4. Single-family detached residential unit.
5. Utilities, minor.
6. Transportation facilities (Type I) (ORD. 1584)

**09.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34.

**09.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37.  
(ORD. 1565)
2. Sign, subject to the provisions of Chapter 52.
3. Temporary use, subject to the provisions of Chapter 35.
4. Agricultural or horticultural use, provided that no retail or wholesale business sales office is maintained on the premises, and provided that poultry or livestock, other than normal household pets, shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot less than one acre, or which has less than 20,000 feet per head of livestock.  
(ORD. 1308)
5. Manufactured home, subject to the provision of Section 36.020, Manufactured Home Standards. (ORD. 1298)
6. Wireless Communication Facilities, subject to the provisions of Chapter 57. (ORD. 1408)

**09.060           CONDITIONAL USES**

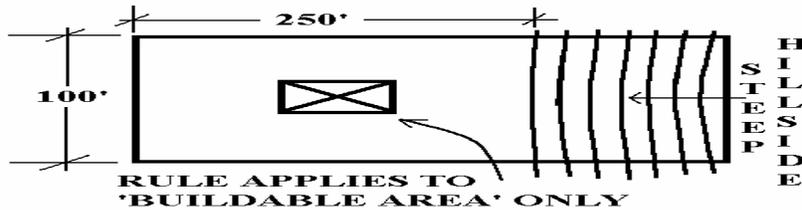
The following are conditional uses which may be allowed in this zoning district subject to the provisions of Chapter 60, Conditional Uses.

1. Cultural exhibits and library services.
2. Lodge, fraternal and civic assembly. (ORD. 1378)
3. Public safety facilities.
4. Public support facilities.
5. Recycle collection center. (ORD. 1172)
6. Religious institution. (ORD. 1378)
7. Schools.
8. Senior center. (ORD. 1411)
9. Utilities, major.
10. Aggregate extraction except aggregate extraction on submersible land, subject to valid permits from the U.S. Army Corp of Engineers, and the Oregon State Land Board. (ORD. 1565)
11. Transportation facilities (Type II) – see Chapter 60.090 for additional approval criteria. (ORD. 1584)

**09.070           DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

Except as may be otherwise provided by the provisions of this Code, the following are the requirements for uses within this zone:

1. The minimum lot size shall be 20,000 square feet for a single-family detached unit. (ORD.1298)
2. The minimum front lot line length or the minimum lot width at the front lot line shall be 150 feet.
3. The average minimum lot width shall be 150 feet.
4. The lot depth comprising non Type I and II lands shall be less than two and one-half times the width, and more than an average depth of 90 feet. (See diagram below.) (ORD. 1377)



5. The minimum yard dimensions or minimum building setback areas from the lot line shall be:
  - a. For the front yard, 20 feet, except for steeply sloped lots where the provisions of Section 41.010 shall apply.
  - b. For an interior side yard, 7-1/2 feet.
  - c. For a side yard abutting a street, 15 feet.
  - d. For a rear yard, 20 feet.
6. The maximum building height shall be 40 feet, except for steeply sloped lots in which case the provisions of Section 41.000 shall apply.
7. The maximum lot coverage shall be 25 percent.
8. The minimum width of an accessway to a lot which does not abut a street or a flag lot, shall be 15 feet.
9. The floor area ratio shall be .45. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of .30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be bases upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a “non-conforming structures” permit under CDC Chapter 66.
10. The sidewall provisions of CDC Chapter 43 shall apply.  
(ORD1538)

**09.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in Section 60.070(1) and (2).

**09.090 OTHER APPLICABLE DEVELOPMENT STANDARDS**

A. The following standards apply to all development including permitted uses:

1. Chapter 34, Accessory Structures.
2. Chapter 36, Temporary Uses.
3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
4. Chapter 40, Building Height Limitations and Exceptions.
5. Chapter 41, Structures in Steep Lots, Exceptions.
6. Chapter 42, Clear Vision Areas.
7. Chapter 44, Fences and Screening of Storage Areas.
8. Chapter 46, Off-street Parking and Loading.
9. Chapter 48, Access.
10. Chapter 52, Signs.
11. Chapter 54, Installation and Maintenance of Landscaping.

B. The provisions of Chapter 55, Design Review, apply to all uses except detached single-family dwellings, residential homes and residential facilities. (ORD. 1308)

**09.100 A REDIVISION PLAN REQUIRED**

A. Where the property being developed is in excess of multiples of 20,000 square feet and additional dwelling units could be developed, a redevelopment plan shall be required as a condition of approval for a single-family dwelling building permit, partition or subdivision. (ORD.1308)

B. The redevelopment plan is a sketch plan, and a land survey and engineering drawing is not required except where there are unique soil,

topographic or geologic conditions. Under the provisions of Section 99.035, Administrative Procedures, the Planning Director may require additional information.

- C. The applicant shall submit a topographic map based on available information, and a subdivision layout in accordance with standards set forth in Chapters 85-95, Land Division, and the Low Density Residential, R-20 zone.
- D. A building permit issued shall be for a specified future lot and the building shall meet the setback provisions of the Low Density Residential, R-20 zone.
- E. The redivision plan is considered a guide. Its purpose is to assure the efficient use of land and orderly growth. At such time as the property owner applies to redivide the land, a different proposal may be submitted for approval provided it meets all of the requirements. The re-division plan is not binding on the applicant or the City at the time a formal application is submitted under the Land Division Chapter.
- F. The Planning Director shall approve the redivision plan in the manner set forth in Section 99.060(A)(2), except that no notice shall be given. The applicant may appeal the Planning Director's decision as provided by Section 99.240(A).
- G. The Planning Director's decision shall be based on the following findings:
  - 1. The redivision plan complies with the applicable requirements of the Land Division Chapter and Low Density Residential, R-20 zone.
  - 2. The sub-surface sewage system has been approved.
  - 3. There is adequate water for the proposed use.

(AMENDED PER ORD. 1500; 12/03; ORD 1538 6/06; ORD 1565 4/08; ORD 1584 12/08)

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### LOW DENSITY

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## **LOW DENSITY**

### **10.000 SINGLE-FAMILY RESIDENTIAL DETACHED, R-15**

#### **10.010 PURPOSE**

The purpose of this zone is to provide for development at levels which relate to the site development limitations. This zone is applicable to areas having steep slopes, areas subject to high erosion potential, areas which will cause serious off-site drainage problems, areas subject to movement, or areas with other types of limitations which require a minimum amount of disturbance to the natural features.

#### **10.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 10.030, is a use which requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions, Section 10.030, is a use for which approval will be granted provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. The approval of a conditional use (Section 10.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- D. The following Code provisions may be applicable in certain situations:
  - 1. Chapter 65, Non-conforming Uses in Structures.
  - 2. Chapter 66, Non-conforming Structures.

3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**10.030 PERMITTED USES**

The following uses are permitted outright in this zoning district: (ORD. 1578)

1. Community recreation.
2. Family day care. (ORD. 1226)
3. Residential home. (ORD. 1500)
4. Single-family detached residential unit.
5. Utilities, minor.

**10.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34.

**10.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37.  
(ORD. 1565)
2. Sign, subject to the provisions of Chapter 52.
3. Temporary use, subject to the provisions of Chapter 35.
4. Agricultural or horticultural use, provided that no retail or wholesale business sales office is maintained on the premises, and provided that poultry or livestock, other than normal household pets, shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre, or which has less than 20,000 feet per head of livestock.  
(ORD. 1308)
5. Manufactured home, subject to the provision of Section 36.020, Manufactured Home Standards. (ORD. 1298)
6. Wireless Communication Facilities, subject to the provisions of Chapter 57. (ORD. 1408)



**10.060           CONDITIONAL USES**

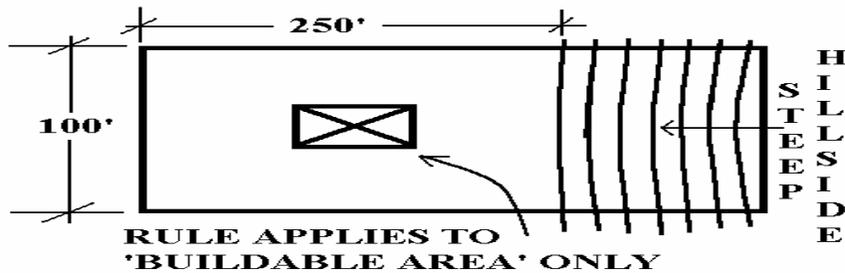
The following are conditional uses which may be allowed in this zoning district subject to the provisions of Chapter 60, Conditional Uses. (ORD. 1578)

1. Cultural exhibits and library services.
2. Lodge, fraternal and civic assembly. (ORD. 1378)
3. Public safety facilities.
4. Public support facilities. (ORD. 1377)
5. Recycle collection center.
6. Religious institution. (ORD. 1378)
7. Schools.
8. Senior center. (ORD. 1411)
9. Utilities, major. (ORD. 1565)
10. Transportation facilities (Type II) – see Chapter 60.090 for additional approval criteria. (ORD. 1584)

**10.070           DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

Except as may be otherwise provided by the provisions of this Code, the following requirements are the requirements for uses within this zone:

1. The minimum lot size shall be 15,000 square feet for a single-family detached unit.
2. The minimum front lot line length or the minimum lot width at the front lot line shall be 45 feet.
3. The average minimum lot width shall be 80 feet.
4. The lot depth comprising non-Type I and II shall be less than two and one-half times the width, and more than an average depth of 90 feet. (See diagram below.) (ORD. 1377)



5. The minimum yard dimensions or minimum building setback areas from the lot line shall be:
  - a. For the front yard, 20 feet, except for steeply sloped lots where the provisions of Section 41.010 shall apply.
  - b. For an interior side yard, 7-1/2 feet.
  - c. For a side yard abutting a street, 15 feet.
  - d. For a rear yard, 20 feet.
6. The maximum building height shall be 40 feet, except for steeply sloped lots in which case the provisions of Section 41.000 shall apply. (ORD. 1538)
7. The maximum lot coverage shall be 30 percent.
8. The minimum width of an accessway to a lot which does not abut a street or a flag lot, shall be 15 feet.
9. The floor area ratio shall be .45. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of .30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a “non-conforming structures” permit under CDC Chapter 66. (ORD. 1538)
10. The sidewall provisions of CDC Chapter 43 shall apply. (ORD 1538)

**10.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in Section 60.070(1) and (2).

**10.090 OTHER APPLICABLE DEVELOPMENT STANDARDS**

A. The following standards apply to all development including permitted uses:

1. Chapter 34, Accessory Structures.
2. Chapter 36, Temporary Uses.
3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
4. Chapter 40, Building Height Limitations and Exceptions.
5. Chapter 41, Structures on Steep Lots, Exceptions.
6. Chapter 42, Clear Vision Areas.
7. Chapter 44, Fences and Screening of Storage Areas.
8. Chapter 46, Off-Street Parking and Loading.
9. Chapter 48, Access.
10. Chapter 52, Signs.
11. Chapter 54, Installation and Maintenance of Landscaping.

B. The provisions of Chapter 55, Design Review, apply to all uses except detached single-family dwellings, residential homes and residential facilities.

(AMENDED PER ORD.1500; 12/03, ORD. 1538; 6/06, ORD. 1565 4/08; ORD 1584 12/08)

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## **LOW DENSITY**

### **11.000 SINGLE-FAMILY RESIDENTIAL DETACHED, R-10**

#### **11.010 PURPOSE**

The purpose of this zone is to provide for urban development at levels which relate to the site development limitations, proximity to commercial development and to public facilities and public transportation. This zone is intended to implement the Comprehensive Plan policies and locational criteria, and is applicable to areas designated as Low Density Residential on the Comprehensive Plan Map and Type I and Type II lands identified under the Buildable Lands Policy.

#### **11.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 11.030, is a use which requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions (Section 11.030) is a use for which approval will be granted provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. A conditional use (Section 11.060) is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- D. The following Code provisions may be applicable in certain situations:
  - 1. Chapter 65, Non-conforming Uses in Structures.

2. Chapter 66, Non-conforming Structures.
3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**11.030 PERMITTED USES**

The following are uses permitted outright in this zoning district: (ORD. 1584)

1. Single-family detached residential unit.
2. Community recreation.
3. Family day care. (ORD. 1226)
4. Residential Home. (ORD. 1500)
5. Utilities, minor.
6. Transportation facilities (Type I) (ORD. 1584)

**11.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34.

**11.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37. (ORD. 1565)
2. Sign, subject to the provisions of Chapter 52.
3. Temporary uses, subject to the provisions of Chapter 35.
4. Water dependent uses, subject to the provisions of Chapters 28, 30 and 34. (ORD. 1308)
5. Agricultural or horticultural use, provided that no retail or wholesale business sales office is maintained on the premises, and provided that poultry or livestock, other than normal household pets, shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre or which has less than 20,000 feet per head of livestock.
6. Manufactured homes subject to the provision of Section 36.020,

Manufactured Home Standards. (ORD. 1298)

7. Wireless Communication Facilities, subject to the provisions of Chapter 57. (ORD. 1408)

**11.060 CONDITIONAL USES**

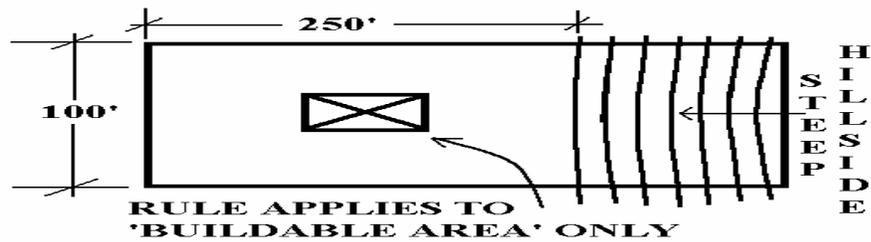
The following are conditional uses which may be allowed in this zoning district subject to the provisions of Chapter 60, Conditional Use.

1. Cultural exhibits and library services.
2. Lodges, fraternal and civic assembly. (ORD. 1378)
3. Public safety facilities.
4. Public support facilities. (ORD. 1377)
5. Recycle collection center. (ORD. 1172)
6. Religious institution. (ORD. 1378)
7. Schools.
8. Senior center. (ORD. 1411)
9. Utilities, major. (ORD. 1565)
10. Transportation facilities (Type II) – see Chapter 60.090 for additional approval criteria. (ORD. 1584)

**11.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

Except as may be otherwise provided by the provisions of this Code, the following are the requirements for uses within this zone:

1. The minimum lot size shall be 10,000 square feet for a single-family detached unit.
2. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
3. The average minimum lot width shall be 50 feet. (ORD. 1298)
4. The lot depth comprising non-Type I and II lands shall be less than two and one-half times the width, and more than an average depth of 90 feet. (See diagram below.) (ORD. 1377)



5. The minimum yard dimensions or minimum building setback area from the lot line shall be:
  - a. For the front yard, 20 feet; except for steeply sloped lots where the provisions of Section 41.010 shall apply; and as specified in Section 26.040(D) for the Willamette Historic District. (ORD. 1175)
  - b. For an interior side yard, 7-1/2 feet; except as specified in Section 26.040(D) for the Willamette Historic District.
  - c. For a side yard abutting a street, 15 feet.
  - d. For a rear yard, 20 feet.
6. The maximum building height shall 35 feet, except for steeply sloped lots in which case the provisions of Section 41.000 shall apply. (ORD. 1538)
7. The maximum lot coverage shall be 35 percent.
8. The minimum width of an accessway to a lot which does not abut a street or a flag lot, shall be 15 feet.
9. The floor area ratio shall be .45. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of .30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a “non-conforming structures” permit under CDC Chapter 66. (ORD 1538)

10. The sidewall provisions of CDC Chapter 43 shall apply. (ORD 1538)

**11.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in Section 60.070(1) and (2).

**11.090 OTHER APPLICABLE DEVELOPMENT STANDARDS**

A. The following standards apply to all development including permitted uses:

1. Chapter 34, Accessory Structures.
2. Chapter 36, Temporary Uses.
3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
4. Chapter 40, Building Height Limitations and Exceptions.
5. Chapter 41, Structures on Steep Lots, Exceptions.
6. Chapter 42, Clear Vision Areas.
7. Chapter 44, Fences and Screening of Storage Areas.
8. Chapter 46, Off-street Parking and Loading.
9. Chapter 48, Access.
10. Chapter 52, Signs.
11. Chapter 54, Installation and Maintenance of Landscaping.

B. The provisions of Chapter 55, Design Review, apply to all uses except detached single-family dwellings, residential homes and residential facilities.

(AMENDED PER ORD. 1500; 12/03, 1538; 6/06; 1565 4/08; 1584 12/08)



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### LOW DENSITY

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## **LOW DENSITY**

### **12.000 SINGLE-FAMILY RESIDENTIAL DETACHED AND ATTACHED, R-7**

#### **12.010 PURPOSE**

The purpose of this zone is to provide for urban development at levels which relate to the site development limitations, the proximity to commercial development, and to public facilities and public transportation. This zone is intended to implement the policies and locational criteria set forth in the Comprehensive Plan.

#### **12.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 12.030, is a use which requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions (Section 12.030) is a use for which approval will be granted provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. The approval of a conditional use (Section 12.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- D. The following Code provisions may be applicable in certain situations.
  - 1. Chapter 65, Non-conforming Uses in Structures.
  - 2. Chapter 66, Non-conforming Structures.

3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**12.030 PERMITTED USES**

The following uses are permitted outright in this zone.

1. Single-family detached residential unit.
2. Single-family attached residential units.
3. Community recreation.
4. Family day care. (ORD. 1226)
5. Residential home. (ORD. 1500)
6. Utilities, minor.
7. Transportation facilities (Type I) (ORD. 1584)

**12.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34.

**12.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37.  
(ORD. 1565)
2. Sign, subject to the provisions of Chapter 52.
3. Temporary uses, subject to the provisions of Chapter 35.
4. Water dependent uses, subject to the provisions of Chapters 28, 30, and 34.
5. Agricultural or horticultural use, provided that no retail or wholesale business sales office is maintained on the premises, and provided that poultry or livestock, other than normal household pets, shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre, or which has less than 20,000 feet per head of livestock. (ORD. 1255)
6. Manufactured home subject to the provision of Section 36.020,

Manufactured Home Standards. (ORD. 1298)

7. Wireless Communication Facilities, subject to the provisions of Chapter 57. (ORD. 1408)

**12.060**            **CONDITIONAL USES**

The following are conditional uses which may be allowed in this zoning district subject to the provisions of Chapter 60, Conditional Use. (ORD. 1584)

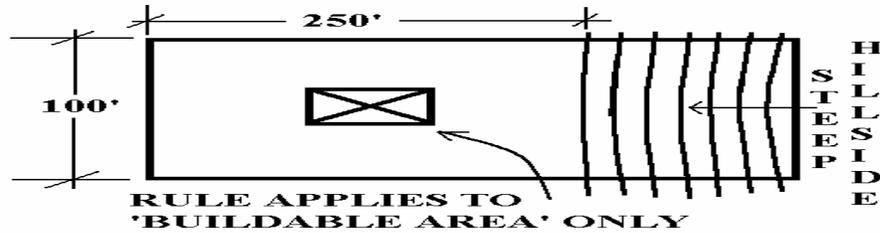
1. Children's day care center.
2. Cultural exhibits and library services.
3. Lodges, fraternal and civic assembly. (ORD. 1378)
4. Public safety facilities.
5. Public support facilities. (ORD. 1377)
6. Recycle collection center.
7. Religious institution. (ORD. 1378)
8. Schools.
9. Senior center. (ORD. 1411)
10. Utilities, major. (ORD. 1565)
11. Transportation facilities (Type II) – see Chapter 60.090 for additional approval criteria. (ORD. 1584)

**12.070**            **DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT  
AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

Except as may be otherwise provided by the provisions of this Code, the following are the requirements for uses within this zone:

1. The minimum lot size shall be:
  - a. For a single-family detached unit, 7,000 square feet. (ORD. 1308)
  - b. For each attached single-family unit, 5,500 square feet. No yard shall be required between the units. (ORD. 1308)
2. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
3. The average minimum lot width shall be 50 feet.
4. The lot depth comprising non-Type I and II lands shall be less than

two and one-half times the width and more than an average depth of 90 feet. (See diagram below.) (ORD. 1377)



5. The minimum yard dimensions or minimum building setback areas from the lot line shall be:
  - a. For the front yard, 20 feet, except for steeply sloped lots where the provisions of Section 41.010 shall apply.
  - b. For an interior side yard, 7-1/2 feet.
  - c. For a side yard abutting a street, 15 feet.
  - d. For a rear yard, 20 feet.
6. The maximum building height shall be 35 feet, except for steeply sloped lots in which case the provisions of Section 41.010 shall apply. (ORD 1538)
7. The maximum lot coverage shall be 35 percent. (ORD. 1226)
8. The minimum width of an accessway to a lot which does not abut a street or a flag lot, shall be 15 feet.
9. The floor area ratio shall be .45. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of .30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a “non-conforming structures” permit under CDC Chapter 66. (ORD. 1538)
10. The sidewall provisions of CDC Chapter 43 shall apply. (ORD . 1538)

**12.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USE**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in Section 60.070(1) and (2).

**12.090 OTHER APPLICABLE DEVELOPMENT STANDARDS**

A. The following standards apply to all development including permitted uses:

1. Chapter 34, Accessory Structures.
2. Chapter 36, Temporary Uses.
3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections.
4. Chapter 40, Building Height Limitations and Exceptions.
5. Chapter 41, Structures on Steep Lots, Exceptions.
6. Chapter 42, Clear Vision Area.
7. Chapter 44, Fences and Screening of Storage Areas.
8. Chapter 46, Off-street Parking and Loading.
9. Chapter 48, Access.
10. Chapter 52, Signs.
11. Chapter 54, Installation and Maintenance of Landscaping.

B. The provisions of Chapter 55, Design Review, apply to all uses except detached single-family dwellings, residential homes and residential facilities. (ORD. 1308)

(AMENDED PER ORD. 1500; 12/03, ORD. 1538; 6/06, ORD. 1565 4/08, ORD. 1584 12/08)



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### MEDIUM DENSITY

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## **MEDIUM DENSITY**

### **13.000 SINGLE-FAMILY RESIDENTIAL/DETACHED AND ATTACHED/DUPLEX, R-5**

#### **13.010 PURPOSE**

The purpose of this zone is to provide for urban development at levels which relate to the site development limitations, proximity to commercial development and public facilities and public transportation, and to the surrounding development pattern. This zone is intended to carry out the intent of the Comprehensive Plan which is to provide for a choice in housing types and is intended to implement the policies and locational criteria in the Comprehensive Plan for medium density residential housing.

#### **13.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 13.030, is a use which requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions, Section 13.030, is a use for which approval will be granted provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. The approval of a conditional use (Section 13.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.

D. The following code provisions may be applicable in certain situations:

1. Chapter 65, Non-conforming Uses in Structures.
2. Chapter 66, Non-conforming Structures.
3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**13.030 PERMITTED USES**

The following uses are permitted outright in this zoning district:

1. Single-family detached residential unit.
2. Single-family attached residential unit, except within the Historic District as provided under Chapter 26. (ORD. 1308)
3. Duplex residential unit.
4. Community recreation.
5. Family day care.
6. Residential home. (ORD. 1500)
7. Utilities, minor.
8. Transportation facilities (Type I) (ORD. 1584)

**13.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34.

**13.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Manufactured home park, subject to the provisions of Chapter 36 and 55.
2. Home occupations, subject to the provisions of Chapter 37. (ORD. 1308, ORD. 1565)
3. Sign, subject to the provisions of Chapter 52.
4. Temporary uses, subject to the provisions of Chapter 35.
5. Water dependent uses, subject to the provisions of Chapters 28, 30 and 34.

6. Manufactured homes subject to the provisions of Section 36.020.
7. Agricultural or horticultural use, provided that no retail or wholesale business sales office is maintained on the premises, and provided that poultry or livestock, other than normal household pets, shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre, or which has less than 20,000 feet per head of livestock.
8. Wireless Communication Facilities, subject to the provisions of Chapter 57. (ORD. 1408)

**13.060           CONDITIONAL USES**

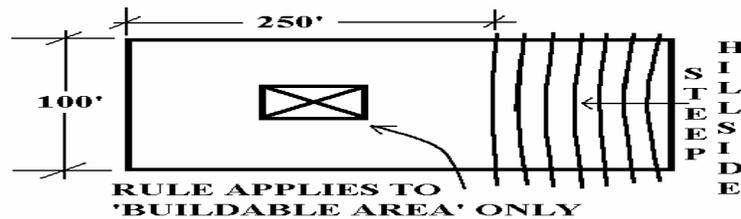
The following are conditional uses which may be allowed in this zone subject to the provisions of Chapter 60, Conditional Uses.

1. Children's day care. (ORD. 1378)
2. Cultural exhibits and library services.
3. Lodge, fraternal and civic assembly. (ORD. 1378)
4. Manufactured home subdivision subject to the provisions of Chapter 36.
5. Public safety facilities. (ORD. 1378)
6. Public support facilities. (ORD. 1377)
7. Recycle collection center. (ORD. 1308)
8. Schools. (ORD. 1378)
9. Senior center. (ORD. 1411)
10. Utilities, major. (ORD. 1378, 1565)
11. Transportation facilities (Type II) – see Chapter 60.090 for additional approval criteria. (ORD. 1584)

**13.070           DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

Except as may be otherwise provided by the provisions of this Code, the following are the requirements for uses within this zone:

1. The minimum lot size shall be:
  - a. For a single-family detached unit, 5,000 square feet.
  - b. For each attached single-family unit, 4,500 square feet. No yard shall be required between the units.
2. The minimum front lot line length or the minimum lot width at the front lot line, shall be 35 feet.
3. The average minimum lot width shall be 50 feet.
4. The minimum average lot depth comprising non-Type I and II lands shall be 90 feet. (See diagram below.) (ORD. 1377)



5. The minimum yard dimensions or minimum building setback areas from the lot line shall be:
  - a. For the front yard, 20 feet, except for steeply sloped lots where the provisions of Section 41.010 shall apply.
  - b. For an interior side yard, 5 feet.
  - c. For a side yard abutting a street, 15 feet.
  - d. For a rear yard, 20 feet.
6. The maximum building height shall be 35 feet, except for steeply sloped lots in which case the provisions of Section 41.000 shall apply. (ORD 1538)
7. The maximum lot coverage shall be 40 percent.
8. The minimum width of an accessway to a lot which does not abut a street or a flag lot, shall be 15 feet.

9. The floor area ratio shall be .45. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of .30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a “non-conforming structures” permit under CDC Chapter 66. (ORD 1538)
10. The sidewall provisions of CDC Chapter 43 shall apply. (ORD. 1538)

**13.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USE**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in Section 60.070(1) and (2).

**13.090 OTHER APPLICABLE DEVELOPMENT STANDARDS**

- A. The following standards apply to all development including permitted uses:
  1. Chapter 34, Accessory Structures.
  2. Chapter 36, Temporary Uses.
  3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
  4. Chapter 40, Building Height Limitations and Exceptions.
  5. Chapter 41, Structures on Steep Lots, Exception.
  6. Chapter 42, Clear Vision Areas.
  7. Chapter 44, Fences and Screening of Storage Areas.
  8. Chapter 46, Off-street Parking and Loading.
  9. Chapter 48, Access.
  10. Chapter 52, Signs.

11. Chapter 54, Installation and Maintenance of Landscaping.

- B. The provisions of Chapter 55, Design Review, apply to all uses except detached single-family dwellings, residential homes and residential facilities.

(AMENDED PER ORD. 1500; 12/03, ORD. 1538; 6/06, ORD. 1565 4/08, ORD. 1584 12/08)

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## **MEDIUM DENSITY**

### **14.000 SINGLE-FAMILY RESIDENTIAL ATTACHED AND DETACHED/DUPLEX, R-4.5**

#### **14.010 PURPOSE**

The purpose of this zone is to provide for urban development at levels which relate to the site development limitations, proximity to commercial development and public facilities and public transportation, and to the surrounding development pattern. This zone is intended to carry out the intent of the Comprehensive Plan which is to provide for a choice in housing types, and is intended to implement the policies and locational criteria in the Comprehensive Plan for medium density residential housing.

#### **14.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 14.030, is a use which requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions in Section 14.030, is a use for which approval will be granted provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. The approval of a conditional use (Section 14.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.

D. The following Code provisions may be applicable in certain situations:

1. Chapter 65, Non-conforming Uses in Structures.
2. Chapter 66, Non-conforming Structures.
3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**14.030 PERMITTED USES**

The following are uses permitted outright in this zoning district:

1. Single-family detached residential unit. (ORD. 1180)
2. Duplex residential units.
3. Family day care. (ORD. 1226)
4. Single-family attached residential units.
5. Community recreation.
6. Residential home. (ORD. 1248)
7. Utilities, minor.
8. Manufactured housing. (ORD. 1354)
9. Transportation facilities (Type I) (ORD. 1584)

**14.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34.

**14.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Manufactured home park, subject to the provisions of Chapters 36 and 55.
2. Home occupations, subject to the provisions of Chapter 37. (ORD. 1565)
3. Sign, subject to the provisions of Chapter 52.
4. Temporary uses, subject to the provisions of Chapter 35. (ORD. 1226)
5. Water dependent uses, subject to the provisions of Chapters 28, 30

and 34.

6. Wireless Communication Facilities, subject to the provisions of Chapter 57. (ORD. 1408)

**14.060**            **CONDITIONAL USES**

The following are conditional uses which may be allowed in this zoning district subject to the provisions of Chapter 60, Conditional Uses. (ORD. 1584)

1. Children's day care center.
2. Cultural exhibits and library services.
3. Lodge, fraternal and civic assembly. (ORD. 1378)
4. Medical and dental offices or clinic.
5. Nursing home.
6. Postal services.
7. Professional and administrative services.
8. Public safety facilities.
9. Public support facilities. (ORD. 1377)
10. Recycle collection center. (ORD. 1172)
11. Religious institution. (ORD. 1378)
12. Schools.
13. Senior center. (ORD. 1411)
14. Utilities, major.
15. Senior citizen/handicapped housing facilities with a maximum number of units 50 percent above the allowed density for the property provided that, in addition to the provisions of Chapter 60, the following conditions shall apply:
  - a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.
  - b. Building height restrictions shall be the same as the subject zoning district.
  - c. Community space and related equipment shall be required

to provide social and recreational opportunities for project occupants. Included may be such facilities as game rooms, meeting rooms, music or craft rooms. At least one community room within a project shall include a service area with a kitchen sink, counter top and storage cabinets, and shall have easy access to a storage area sized to store tables, chairs and janitorial supplies. All complexes shall have a minimum of 15 square feet of community space per occupant, based on one person per bedroom.

- d. Congregate dining facilities providing regular daily meals for residents shall be provided.
- e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.
- f. The maximum number of units allowed in a senior citizens or handicapped housing facility shall be as follows:
  - 1) Medium-high density district (R-2.1). The base density shall be 50 percent above the allowed density for the property.
  - 2) Medium density district (R-4.5). The density shall be 50 percent above the allowed density for the property.
- g. The design of the building(s) and the site and landscaping plans shall be subject to Design Review, Chapter 55. Special considerations for this use are the following:
  - 1) Structures shall be compatible in style, color, materials, and scale with the general character of the neighborhood.

- 2) The building design and site layout shall define recognizable semi-public, semi-private and private spaces; insure a sense of protection and community identity; and minimize barriers to handicapped or elderly persons.
- 3) A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas for outdoor recreation, pedestrian access and amenities, and adequate site and sound buffering of adjacent properties.
- 4) No more than 25 percent of the total number of units may be used for nursing care patients.
- 5) Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the approval authority board finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.

(ORD. 1500)

16. Transportation facilities (Type I) (ORD. 1584)

**14.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

Except as may be otherwise provided by the provisions of this Code, the following are the requirements for uses within this zone:

1. The minimum lot size shall be:
  - a. For a single-family detached unit, 4,500 square feet.
  - b. For each attached single-family unit, 4,000 square feet.
  - c. For a duplex, 8,000 square feet or 4,000 square feet for each unit.
2. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.

3. The average minimum lot width shall be 50 feet.
4. The minimum average lot depth shall be 90 feet.
5. The minimum yard dimensions or minimum building setback areas from the lot line shall be:
  - a. For a front yard, 20 feet; except for steeply sloped lots where the provisions of Section 41.010 shall apply.
  - b. For an interior side yard, 5 feet.
  - c. For a side yard abutting a street, 15 feet.
  - d. For a rear yard, 20 feet.
6. The maximum building height shall be 35 feet except for steeply sloped lots in which case the provisions of Chapter 41 shall apply. (ORD 1538)
7. The maximum lot coverage shall be 40 percent.
8. The minimum width of an accessway to a lot which does not abut a street or a flag lot shall be 15 feet.
9. The floor area ratio shall be .45. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of .30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a “non-conforming structures” permit under CDC Chapter 66. (ORD 1538)
10. The sidewall provisions of CDC Chapter 43 shall apply. (ORD 1538)

**14.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in Section 60.070(1) and (2).

**14.090**

**OTHER APPLICABLE DEVELOPMENT STANDARDS**

- A. The following standards apply to all development including permitted uses:
  - 1. Chapter 34, Accessory Structures.
  - 2. Chapter 36, Temporary Uses.
  - 3. Chapter 38, Additional Yard Area Required Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
  - 4. Chapter 40, Building Height Limitations and Exceptions.
  - 5. Chapter 41, Structures on Steep Lots, Exceptions.
  - 6. Chapter 42, Clear Vision Areas.
  - 7. Chapter 44, Fences and Screening of Storage Areas.
  - 8. Chapter 46, Off-street Parking and Loading.
  - 9. Chapter 48, Access.
  - 10. Chapter 52, Signs.
  - 11. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of Chapter 55, Design Review, apply to all uses except detached single-family dwellings.

(AMENDED PER ORD. 1500; 12/03, ORD. 1538; 6/06, ORD. 1565; 4/08, ORD. 1584; 12/08)

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## **MEDIUM-HIGH DENSITY**

### **15.000 SINGLE-FAMILY AND MULTIPLE-FAMILY RESIDENTIAL, R-3**

#### **15.010 PURPOSE**

The purpose of this zone is to provide for urban development at levels which relate to the site development limitations, proximity to commercial development and public facilities and public transportation, and to the surrounding development pattern. This zone is intended to carry out the intent of the Comprehensive Plan which is to provide for a choice in housing types and is intended to implement the policies and locational criteria in the Comprehensive Plan for high density residential housing.

#### **15.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 15.030, is a use which requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions, Section 15.030, is a use for which approval will be granted provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. The approval of a conditional use (Section 15.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.

D. The following Code provisions may be applicable in certain situations:

1. Chapter 65, Non-conforming Uses in Structures.
2. Chapter 66, Non-conforming Structures.
3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**15.030 PERMITTED USES**

The following uses are uses permitted outright in this zoning district: (ORD. 1584)

1. Single-family detached residential units.
2. Duplex residential unit.
3. Multiple-family residential unit.
4. Single-family attached residential units.
5. Group residential units.
6. Community recreation.
7. Family day care. (ORD. 1226)
8. Residential home. (ORD. 1500)
9. Utilities, minor.
10. Manufactured housing. (ORD. 1354)
11. Transportation facilities. (Type I) (ORD. 1584)

**15.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34.

**15.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37. (ORD 1565)
2. Sign, subject to the provisions of Chapter 52.
3. Temporary uses, subject to the provisions of Chapter 35.

4. Water dependent uses, subject to the provisions of Chapters 28, 30 and 34.
5. Wireless Communication Facilities, subject to the provisions of Chapter 57. (ORD. 1408)

**15.060 CONDITIONAL USES**

The following uses are conditional uses which may be allowed in this zoning district subject to the provisions of Chapter 60, Conditional Use. (ORD. 1584)

1. Children's day care center.
2. Cultural exhibits and library services.
3. Lodge, fraternal and civic assembly. (ORD. 1378)
4. Nursing home.
5. Public safety facilities.
6. Public support facilities. (ORD. 1377)
7. Religious institution. (ORD. 1378)
8. Residential facility. (ORD. 1500)
9. Schools.
10. Senior center. (ORD. 1411)
11. Utilities, major.
12. Senior citizen/handicapped housing facilities with a maximum number of units 50 percent above the allowed density for the property, provided that, in addition to the provisions of Chapter 60, the following conditions shall apply:
  - a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.
  - b. Building height restrictions shall be the same as the subject zoning district.
  - c. Community space and related equipment shall be required to provide social and recreational opportunities for project occupants. Included may be such facilities as game rooms,

meeting rooms, music or craft rooms. At least one community room within a project shall include a service area with a kitchen sink, counter top and storage cabinets, and shall have easy access to a storage area sized to store tables, chairs and janitorial supplies. All complexes shall have a minimum of 15 square feet of community space per occupant, based on one person per bedroom.

- d. Congregate dining facilities providing regular daily meals for residents shall be provided.
- e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.
- f. The maximum number of units allowed in a senior citizens or handicapped housing facility shall be 50 percent above the allowed density for the property.
- g. The design of the building(s) and the site and landscaping plans shall be subject to Design Review, Chapter 55.

Special considerations for this use are the following:

- 1) Structures shall be compatible in style, color, materials, and scale with the general character of the neighborhood.
- 2) The building design and site layout shall define recognizable semi-public, semi-private, and private spaces; insure a sense of protection and community identity; and minimize barriers to handicapped or elderly persons.
- 3) A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas

for outdoor recreation, pedestrian access and amenities, and adequate site and sound buffering of adjacent properties.

- 4) No more than 25 percent of the total number of units may be used for nursing care patients.
- 5) Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the approval authority finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.

13. Transportation facilities (Type II) – see Chapter 60.090 for additional approval criteria. (ORD.1584)

**15.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

Except as may be otherwise provided by the provisions of this Code, the following are requirements for uses within this zone:

1. The minimum lot size shall be:
  - a. For a single-family detached unit, 3,000 square feet.
  - b. For each attached single-family unit, 3,000 square feet.
  - c. For each multiple-family dwelling unit, 3,000 square feet.
2. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
3. The minimum average lot depth shall be 75 feet.
4. The minimum yard dimensions or minimum building setback area from the lot line shall be:
  - a. For a front yard, 15 feet (20 feet for a garage); except for steeply sloped lots where the provisions of Section 41.010 shall apply.
  - b. For an interior side yard, 5 feet.
  - c. For a side yard abutting a street, 15 feet.

- d. For a rear yard, 15 feet, except that in the case of an apartment structure in this district, an additional yard area may be required between the structure in this district and any adjacent low density residential uses.
- 5. The maximum building height shall be 35 feet for an attached or detached single-family unit, duplex unit or multi-family unit, except for steeply sloped lots when the provisions of Chapter 41.000 shall apply. (ORD. 1538)
- 6. The maximum lot coverage shall be 50 percent.
- 7. The floor area ratio for single-family homes shall be .45. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of .30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a “non-conforming structures” permit under CDC Chapter 66. (ORD. 1538)
- 8. The sidewall provisions of CDC Chapter 43 shall apply. (ORD. 1538)

**15.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in Section 60.070(1) and (2).

**15.090 OTHER APPLICABLE DEVELOPMENT STANDARDS**

- A. The following standards apply to all development including permitted uses:
  - 1. Chapter 34, Accessory Structures.
  - 2. Chapter 36, Temporary Uses.
  - 3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
  - 4. Chapter 40, Building Height Limitations and Exceptions.

5. Chapter 41, Structures on Steep Lots, Exception.
  6. Chapter 42, Clear Vision Areas.
  7. Chapter 44, Fences and Screening of Storage Area.
  8. Chapter 46, Off-street Parking and Loading.
  9. Chapter 48, Access.
  10. Chapter 52, Signs.
  11. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of Chapter 55, Design Review, apply to all uses except detached single-family dwellings, residential homes and residential facilities.

(AMENDED PER ORD. 1500; 12/03, ORD. 1538; 6/06, ORD. 1565, ORD. 1584 12/08)

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## **MEDIUM-HIGH DENSITY**

### **16.000 SINGLE-FAMILY AND MULTIPLE-FAMILY RESIDENTIAL, R-2.1**

#### **16.010 PURPOSE**

The purpose of this zone is to provide for urban development at levels which relate to the site development limitations, proximity to commercial development and public facilities and public transportation, and to the surrounding development pattern. This zone is intended to carry out the intent of the Comprehensive Plan which is to provide for a choice in housing types and is intended to implement the policies and locational criteria in the Comprehensive Plan for high density residential housing.

#### **16.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 16.030, is a use which requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions, Section 16.030, is a use for which approval will be granted provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. The approval of a conditional use (Section 16.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.

D. The following Code provisions may be applicable in certain situations:

1. Chapter 65, Non-conforming Uses in Structures.
2. Chapter 66, Non-conforming Structures.
3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**16.030 PERMITTED USES**

The following are uses permitted outright in this zoning district: (ORD. 1584)

1. Community recreation.
2. Duplex residential unit. (ORD. 1276)
3. Family day care. (ORD. 1226)
4. Group residential units.
5. Multiple-family residential unit.
6. Residential home. (ORD. 1248)
7. Single-family attached residential units.
8. Utilities, minor.
9. Transportation facilities (Type I). (ORD. 1584)

**16.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34.

**16.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions:

1. Home occupations, subject to the provisions of Chapter 37.  
(ORD. 1565)
2. Signs, subject to the provisions of Chapter 52.
3. Temporary uses, subject to the provisions of Chapter 35.  
(1/90)
4. Water dependent uses, subject to the provisions of Chapters 28, 30 and 34.

5. Wireless Communication Facilities, subject to the provisions of Chapter 57. (ORD. 1408)

**16.060**      **CONDITIONAL USES**

The following are conditional uses which may be allowed in this zoning district subject to the provisions of Chapter 60, Conditional Uses: (ORD. 1584)

1. Children's day care center.
2. Convenience sales and personal services.
3. Cultural exhibits and library services.
4. Lodges, fraternal and civic assembly. (ORD. 1378)
5. Medical and dental offices or clinic.
6. Nursing home.
7. Postal services.
8. Professional and administrative services.
9. Public safety facilities.
10. Public support facilities. (ORD. 1377)
11. Recycle collection center. (ORD. 1172)
12. Religious institution. (ORD. 1378)
13. Residential facility. (ORD. 1500)
14. Schools.
15. Single-family detached residential unit.
16. Utilities, major.
17. Senior citizen/handicapped housing facilities with a maximum number of units 50 percent above the allowed density for the property, provided that in addition to the provisions of Chapter 60 the following conditions shall apply:
  - a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.
  - b. Building height restrictions shall be the same as the subject zoning district.

- c. Community space and related equipment shall be required to provide social and recreational opportunities for project occupants. Included may be such facilities as game rooms, meeting rooms, music or craft rooms. At least one community room within a project shall include a service area with a kitchen sink, counter top and storage cabinets, and shall have easy access to a storage area sized to store tables, chairs and janitorial supplies. All complexes shall have a minimum of 15 square feet of community space per occupant, based on one person per bedroom.
- d. Congregate dining facilities providing regular daily meals for residents shall be provided.
- e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.
- f. The maximum number of units allowed in a senior citizens or handicapped housing facility shall be as follows:
  - 1) Medium-high density district (R-2.1). The base density shall be 50 percent above the allowed density for the property. (ORD. 1276)
  - 2) Medium density district (R-4.5). The density shall be 50 percent above the allowed density for the property.
- g. The design of the building(s) and the site and landscaping plans shall be subject to Design Review, Chapter 55. Special considerations for this use are the following:

- 1) Structures shall be compatible in style, color, materials, and scale with the general character of the neighborhood.
- 2) The building design and site layout shall define recognizable semi-public, semi-private and private spaces; insure a sense of protection and community identity; and minimize barriers to handicapped or elderly persons.
- 3) A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas for outdoor recreation, pedestrian access and amenities, and adequate site and sound buffering of adjacent properties.
- 4) No more than 25 percent of the total number of units may be used for nursing care patients.
- 5) Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the approval authority finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.

18. Senior center. (ORD. 1411)
19. Manufactured housing. (ORD. 1354)
20. Transportation facilities (Type II) – see Chapter 60.090 for additional approval criteria (ORD. 1584)

**16.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

Except as may be otherwise provided by the provisions of this Code, the following are requirements for uses within this zone:

1. The minimum lot size shall be:
  - a. For a single-family detached unit, 4,000 square feet.
  - b. For each attached single-family unit, 2,700 square feet.
  - c. For a duplex, 7,000 square feet, or 3,500 square feet for each unit.
  - d. For a boarding, lodging or rooming house, 7,000 square feet.
  - e. For each multiple-family dwelling unit, 2,100 square feet. A multiple-family dwelling unit is limited to three and one-half stories in height.
2. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
3. The average minimum lot width shall be 50 feet.
4. The minimum average lot depth shall be 90 feet.
5. The minimum yard dimensions or minimum building setback area from the lot line shall be:
  - a. For a front yard, 20 feet; except for steeply sloped lots where the provisions of Section 41.010 shall apply.
  - b. For an interior side yard, 5 feet.
  - c. For a side yard abutting a street, 15 feet.
  - d. For a rear yard, 20 feet, except that in the case of an apartment structure in this district, an additional yard area may be required between the structure in this district and any adjacent low density residential uses.
6. The maximum building height shall be:
  - a. 35 feet for a garden apartment - low rise unit, single-family unit, attached single-family unit, duplex unit or boarding house, except for steeply sloped lots when the provisions of Chapter 41.000 shall apply. (ORD. 1538)

- b. Three and one-half stories or 45 feet for a garden apartment - medium rise unit.
- 7. The maximum lot coverage shall be 50 percent.
- 8. The floor area ratio for single-family homes shall be .45. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of .30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a “non-conforming structures” permit under CDC Chapter 66. (ORD. 1538)
- 9. The sidewall provisions of CDC Chapter 43 shall apply. (ORD. 1538)

**16.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application, based upon the criteria set forth in Section 60.070(1) and (2).

**16.090 OTHER APPLICABLE DEVELOPMENT STANDARDS**

- A. The following standards apply to all development including permitted uses:
  - 1. Chapter 34, Accessory Structures.
  - 2. Chapter 36, Temporary Uses.
  - 3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
  - 4. Chapter 40, Building Height Limitations and Exceptions.
  - 5. Chapter 41, Structures on Steep Lots, Exception.
  - 6. Chapter 42, Clear Vision Areas.
  - 7. Chapter 44, Fences and Screening of Storage Area.
  - 8. Chapter 46, Off-street Parking and Loading.
  - 9. Chapter 48, Access.

10. Chapter 52, Signs.
  11. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of Chapter 55, Design Review, apply to all uses except detached single-family dwellings.

(AMENDED PER ORD. 1500; 12/03, ORD. 1538; 6/06, ORD 1565; 4/08, ORD. 1584; 12/08)

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## **COMMERCIAL**

### **18.000 NEIGHBORHOOD COMMERCIAL, NC**

#### **18.010 PURPOSE**

The purpose of the neighborhood commercial zone is to provide for convenience goods and services within a cluster of stores. Convenience goods are goods which are bought frequently, at least weekly, and for which people do not engage in comparison shopping. The range of uses is limited to those uses which can be supported by a limited trade area. Uses in this district are intended to meet neighborhood needs as opposed to community wide needs. This zone is intended to implement the policies and locational criteria set forth in the Comprehensive Plan.

#### **18.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 18.030, is a use which requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions, Section 18.030, is a use for which approval will be granted provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. The approval of a conditional use (Section 18.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.

D. The following Code provisions may be applicable in certain situations:

1. Chapter 65, Non-conforming Uses in Structures.
2. Chapter 66, Non-conforming Structures.
3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**18.030 PERMITTED USES**

The following are uses permitted outright in this zone:

1. Convenience grocery store.
2. Cultural exhibits and library services.
3. Family day care. (ORD. 1226)
4. Utilities, minor.

(ORD. 1401)

**18.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34.

**18.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions:

1. Signs, subject to the provisions of Chapter 52.
2. Temporary use, subject to the provisions of Chapter 35.
3. Wireless Communication Facilities, subject to the provisions of Chapter 57. (ORD. 1408)

**18.060 CONDITIONAL USES**

The following are conditional uses which may be allowed in this zone subject to the provisions of Chapter 60, Conditional Uses.

1. Children's day care center.
2. Consumer repair services.
3. Convenience sales and personal services.
4. Food and beverage retail sales.

5. Financial, insurance and real estate services.
6. Nursery. (ORD. 1180)
7. Medical and dental services.
8. Personal service facilities.
9. Professional and administrative services.
10. Utilities, major.
11. Extended-hour businesses. CUPs shall be required when:
  - a. New extended-hour business is proposed by construction of a new building.
  - b. Expansion of the size of existing buildings for use by an extended-hour business is proposed.

(ORD. 1402)
12. Postal services. (ORD. 1401)
13. Public safety facilities. (ORD. 1401)
14. Public support facilities. (ORD. 1401)

**18.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

Except as may be otherwise provided by the provisions of this Code, the following are the requirements for uses within this zone:

1. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
2. The average minimum lot width shall be 50 feet.
3. The average minimum lot depth shall not be less than 90 feet.
4. The minimum yard dimensions or minimum building setback area from the lot line shall be:
  - a. For a front yard, 25 feet.
  - b. For an interior side yard, 7-1/2 feet.
  - c. For a side yard abutting a street, 15 feet.
  - d. For a rear yard, 25 feet. However, where the use abuts a

residential district, the setback distance of the residential

zone shall apply, and in addition, a buffer of up to 50 feet may be required.

5. The maximum lot coverage shall be 50 percent; however, the above requirements in this section may be modified for developments under the planned unit development provisions of Chapter 24.
6. The maximum building height shall be two and one-half stories, or 35 feet.

**18.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in Section 60.070(1) and (2).

**18.090 OTHER APPLICABLE DEVELOPMENT STANDARDS**

- A. The following standards apply to all development including permitted uses:
  1. Chapter 34, Accessory Structures.
  2. Chapter 36, Temporary Uses.
  3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
  4. Chapter 40, Building Height Limitations and Exceptions.
  5. Chapter 42, Clear Vision Areas.
  6. Chapter 44, Fences; Screening of Outdoor Storage.
  7. Chapter 46, Off-street Parking and Loading.
  8. Chapter 48, Access.
  9. Chapter 52, Signs.
  10. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of Chapter 55, Design Review, apply to all uses except detached single-family dwellings.

(AMENDED PER ORD. 1408; 2/98)

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## **19.000 GENERAL COMMERCIAL, GC**

### **19.010 PURPOSE**

The purpose of this zone is to provide for the concentration of major retail goods and services at centers. The intent is to provide for the provision of a variety of goods and services and for comparison shopping, to accommodate new businesses and employment opportunities, to promote a suitable mix of commercial uses, to contribute to community identity and to assure that the commercial development is scaled to blend with nearby residential areas, and that the residential areas are protected from noise, glare of lights, traffic congestion and other possible adverse effects. This zone is intended to implement the policies and locational criteria set forth in the Comprehensive Plan.

### **19.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 19.030, is a use which requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions, Section 19.030, is a use for which approval will be granted provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 19.060.
- C. A conditional use, Section 19.060 is a use, the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- D. The following Code provisions may be applicable in certain situations:
  - 1. Chapter 65, Non-conforming Uses in Structures.

2. Chapter 66, Non-conforming Structures.
3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**19.030 PERMITTED USES**

The following uses are permitted outright in this zone:

1. Agricultural sales.
2. Agricultural services.
3. Animal sales and services, grooming.
4. Building maintenance services.
5. Business equipment sales and services.
6. Business support services.
7. Communications services.
8. Consumer repair services.
9. Convenience sales and personal services.
10. Eating and drinking establishments.
11. Family day care. (ORD. 1226)
12. Financial, insurance and real estate services.
13. Food and beverage retail sales.
14. General retail services.
15. Laundry services. (ORD. 1226)
16. Senior center. (ORD. 1411)
17. Medical and dental services.
18. Parking facilities.
19. Participant sports and recreation, indoor.
20. Personal service facilities.
21. Professional and administrative services.
22. Research services.
23. Utilities, minor.
24. Cultural exhibits and library services.

25. Extended-hour businesses. CUPs shall be required when:
  - a. New extended-hour business is proposed by construction of a new building.
  - b. Expansion of the size of existing buildings for use by an extended-hour business is proposed.

(ORD. 1411)

**19.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34.

**19.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions:

1. Multiple family units: as a mixed use in conjunction with commercial development, only above the first floor of the structure and on the ground floor of businesses on Willamette Falls Drive pursuant to CDC Section 58.050. (ORD. 1385)
2. Animal sales and services: kennels, as prescribed with no exterior runs or storage.
3. Animal sales and services: veterinary (small animals), as prescribed with no exterior runs or storage.
4. Signs, subject to the provisions of Chapter 52.
5. Temporary use, subject to the provisions of Chapter 35.
6. Home Occupations, subject to the provisions of Chapter 37.(ORD. 1192) (ORD. 1565)
7. Wireless Communication Facilities, subject to the provisions of Chapter 57.

**19.060 CONDITIONAL USES**

The following are conditional uses which may be allowed in this zone subject to the provisions of Chapter 60, Conditional Uses:

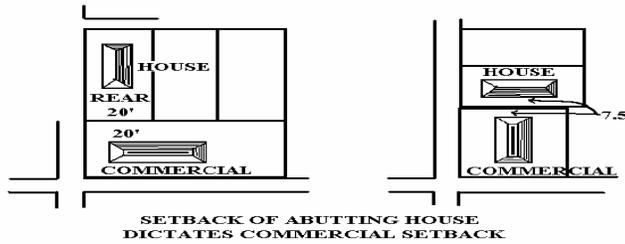
1. Children's day care center.

2. Automotive and equipment:
  - a. Cleaning.
  - b. Repairs, heavy equipment.
  - c. Repairs, light equipment.
  - d. Sales/rentals, heavy equipment.
  - e. Sales/rentals, light equipment.
  - f. Storage, recreation vehicles and boats.
3. Construction, sales and services.
4. Heliports.
5. Hospitals.
6. Light industrial, manufactured.
7. Light industrial, finished products.
8. Spectator sports facilities.
9. Vehicle fuel sales.
10. Utilities, major.
11. Wholesale storage and distribution:
  - a. Mini-warehouse.
  - b. Light.
12. Single-family homes, which were presently non-conforming structures and were damaged, whereby the cost of rebuilding the damaged portions would exceed 50 percent of the then current replacement cost of the entire building. Determination of rebuilding costs shall be per Section 66.070(A).  
(ORD. 1192)
13. Household hazardous waste depot. (ORD. 1339)
14. Super stores.
15. Amusement enterprises.
16. Public agency administration.
17. Public safety facilities.
18. Public support facilities.

19. Recycle collection center.
20. Transient lodging.
21. Postal services.
22. Religious institutions. (ORD. 1463)
23. Schools (with under 200 students). (ORD. 1463) (ORD 1523)

**19.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT  
AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

- A. Except as may be otherwise provided by the provisions of this Code, the following are the requirements for uses within this zone:
1. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
  2. The average minimum lot width shall be 50 feet.
  3. The average minimum lot depth shall not be less than 90 feet.
  4. Where the use abuts a residential district, the setback distance of the residential zone shall apply. For example, when the rear of a residential property abuts the side of a commercial property, the residential 20-foot setback shall apply to the commercial property. When the side of a residential property abuts the rear of a commercial property, the residential 5 to 7-1/2 foot setback shall apply to the commercial property. In addition, a buffer of up to 50 feet may be required.



*Setback of abutting house dictates commercial setback*

(ORD. 1401)

5. The maximum lot coverage shall be 50 percent.
6. The maximum building height shall be two and one-half stories or 35 feet for any structure located within 50 feet of a low or medium density residential zone, and three and one-half stories or 45 feet for any structure located 50 feet or more from a low or medium density residential zone.
7. For lot lines that abut an arterial, there shall be no minimum yard dimensions or minimum building setback area, and the maximum building setback shall be 20 feet. The front setback area between the street and the building line shall consist of landscaping or a combination of non-vehicular hardscape areas (covered with impervious surfaces) and landscaped areas, with at least 25 percent of the front setback area consisting of landscaped areas. If there are not street trees within the public right-of-way, the front setback area shall include such trees per the requirements of the City Arborist. (ORD. 1425)

- B. The requirements of Section 19.070(A) 1 through 5 (above) may be modified for developments under the planned unit development provisions of Chapter 24.

**19.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in Section 60.070(1) and (2).

**19.090 OTHER APPLICABLE DEVELOPMENT STANDARDS**

A. The following standards apply to all development including permitted uses:

1. Chapter 34, Accessory Structures.
2. Chapter 36, Temporary Uses.
3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
4. Chapter 40, Building Height Limitations and Exceptions.
5. Chapter 42, Clear Vision Areas.
6. Chapter 44, Fences; Screening of Outdoor Storage.
7. Chapter 46, Off-street Parking and Loading.
8. Chapter 48, Access.
9. Chapter 52, Signs.
10. Chapter 54, Installation and Maintenance of Landscaping.

B. The provisions of Chapter 55, Design Review, apply to all uses except detached single-family dwellings.

(AMENDED PER ORD. 1463; 10/00, ORD 1565 4/08)



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**21.000 OFFICE - BUSINESS CENTER, OBC**

**21.010 PURPOSE**

The purpose of this zone is to provide for groups of business and offices in centers, to accommodate the location of intermediate uses between residential districts and areas of more intense development, to provide opportunities for employment and for business and professional services in close proximity to residential neighborhoods and major transportation facilities, to expand the City's economic potential, to provide a range of compatible and supportive uses, and to locate office employment where it can support other commercial uses. The trade area will vary and may extend outside the community. This zone is intended to implement the policies and criteria set forth in the Comprehensive Plan.

**21.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 21.050, is a use that requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80. (ORD. 1463)
- B. A use permitted under prescribed conditions, Section 21.030, is a use for which approval will be granted provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. The approval of a conditional use (Section 21.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.

D. The following Code provisions may be applicable in certain situations:

1. Chapter 65, Non-conforming Uses in Structures.
2. Chapter 66, Non-conforming Structures.
3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**21.030 PERMITTED USES**

The following uses are uses permitted outright in this zone:

1. Business equipment sales and services.
2. Business support services.
3. Communications services.
4. Cultural exhibits and library services.
5. Family day care. (ORD. 1226)
6. Financial, insurance and real estate services.
7. Medical and dental services.
8. Parking facilities.
9. Participant sports and recreation, indoor.
10. Personal services and facilities.
11. Professional and administrative services.
12. Utilities, minor.

(ORD. 1401)

**21.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34.

**21.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions:

1. Animal sales and services: veterinary (small animals) as prescribed with no exterior runs or storage.
2. Multiple family units, as a mixed use in conjunction with commercial development, only above the first floor of the

structure.

3. Signs, subject to the provisions of Chapter 52.
4. Temporary use, subject to the provisions of Chapter 35.
5. Home occupation, subject to provisions of Chapter 37.  
(ORD. 1226) (ORD. 1565)
6. Wireless communication facilities, subject to the provisions of Chapter 57. (ORD. 1408)
7. Eating and drinking establishments, subject to the following limitations:
  - a. The use shall constitute no more than 20 percent of the total floor area of the building in which it is located.
  - b. The use shall not include any drive-through facilities.  
(ORD. 1442)

**21.060           CONDITIONAL USES**

The following uses are conditional uses which may be allowed in this zone subject to the provisions of Chapter 60, Conditional Use:

1. Children's day care center.
2. Convenience sales and personal services.
3. Food and beverage retail sales.
4. Heliports.
5. Research services.
6. Transient lodging and associated convention facilities.  
(ORD. 1172)
7. Utilities, major.
8. Vehicle fuel sales.
9. Single-family homes, which were presently non-conforming structures and were damaged, whereby the cost of rebuilding the damaged portions would exceed 50 percent of the then current replacement cost of the entire building. Determination of rebuilding costs shall be per Section 66.070(A).

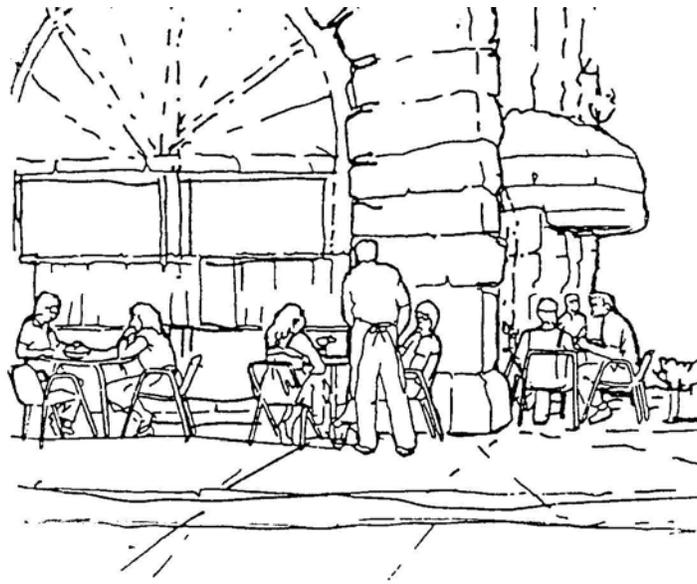
10. Postal services.
11. Public safety offices.
12. Public support facilities.

(ORD. 1401)

**21.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT  
AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

- A. Except as may be otherwise provided by the provisions of this Code, the following are requirements for uses within this zone:
1. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
  2. The average minimum lot width shall be 35 feet.
  3. The average minimum lot depth shall not be less than 90 feet.
  4. The minimum yard dimensions or minimum building setback area from the lot line shall be:
    - a. For an interior side yard, 7-1/2 feet.
    - b. For a side yard abutting a street, 15 feet.
    - c. For a rear yard, 25 feet; however, where the use abuts a residential district, the setback distance of the residential zone shall apply and in addition, a buffer of up to 50 feet may be required.
  5. For lot lines that abut an arterial, there shall be no minimum yard dimensions or minimum building setback area, and the maximum building setback shall be 20 feet. The front setback area between the street and the building line shall consist of landscaping or a combination of non-vehicular hardscape areas (covered with impervious surfaces) and landscaped areas, with at least 25 percent of the front setback area consisting of landscaped areas. If there are not street trees within the public right-of-way, the front setback area shall include such trees per the requirements of the City Arborist.

(ORD. 1425)



(ORD. 1425)

6. The maximum lot coverage shall be 50 percent.
7. The maximum building height shall be two and one-half stories or 35 feet for any structure located within 50 feet of a low or medium density residential zone and three and one-half stories or 45 feet for any structure located 50 feet or more from a low or medium density residential area.

(ORD. 1425)

- B. The requirements of 1 through 5 in Section 21.070(A) above may be modified for developments under the planned unit development provisions of Chapter 24.

## **21.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon criteria set forth in Section 60.070(1) and (2).

## **21.090 OTHER APPLICABLE DEVELOPMENT STANDARDS**

- A. The following standards apply to all development including permitted uses:

1. Chapter 34, Accessory Structures.
  2. Chapter 36, Temporary Uses.
  3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
  4. Chapter 40, Building Height Limitations and Exceptions.
  5. Chapter 42, Clear Vision Areas.
  6. Chapter 44, Fences; Screening of Outdoor Storage.
  7. Chapter 46, Off-street Parking and Loading.
  8. Chapter 48, Access.
  9. Chapter 52, Signs.
  10. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of Chapter 55, Design Review, apply to all uses except detached single-family dwellings.

(AMENDED PER ORD. 1463; 10/00, ORD 1565 4/08)

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## **INDUSTRIAL**

### **22.000 CAMPUS INDUSTRIAL, CI**

#### **22.010 PURPOSE**

The purpose of the Campus Industrial zoning district is to provide a mix of clean, employee-intensive industries, offices, and retail commercial uses which have no off-site impacts in terms of noise, odor, glare, lights, vibration, smoke dust or other types of off-site impacts. The zone provides for combining parking, landscaping and other design features and which physically and visually link structures and uses within one development.

#### **22.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 22.030, is a use which requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions, Sections 22.030, is a use for which approval will be granted provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. The approval of a conditional use (Section 22.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- D. The following Code provisions may be applicable in certain situations:
  - 1. Chapter 65, Non-conforming Uses in Structures.
  - 2. Chapter 66, Non-conforming Structures.

3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**22.030 PERMITTED USES**

The following uses are permitted outright in this zone:

1. Research services.
2. Manufacturing of finished products provided that:
  - a. The use is employee-intensive, providing approximately 15 or more jobs for every developed acre of land.
  - b. The use is not of a type or intensity which produces odor, smoke, fumes, noise, glare, heat or vibrations which are incompatible with other primary uses allowed in this district.
  - c. The physical and operational requirements of the use, including type of structure used and volume of heavy traffic generated, are similar to other industrial and office uses allowed in this district.
3. Business support services.
4. Personal service facilities primarily serving the business community within the area.
5. Corporate headquarters or regional offices with 50 or more employees.
6. Offices, except corporate headquarters or regional offices allowed under Section 22.030(5) above, and those offices specified as limited uses under Section 22.050(B), may occupy up to 70 percent of the total floor area of the development.
7. Participant sports and recreation: indoor and outdoor developed to serve primarily the recreational needs of residents and employees of the district.

**22.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34 and include among other uses the following:

1. Public support facilities.
2. Building maintenance facilities.
3. Recycling collection centers provided that any storage of material shall be within an enclosed structure.
4. Children's day care.
5. Utilities, minor.

**22.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

A. The following uses are allowed on a limited basis as part of the development of this district when developed concurrently with or after the primary uses, subject to the provisions of Section 22.050(B):

1. Convenience sales and personal services.
2. Banks.
3. Medical and dental services.
4. Bars and cocktail lounges in conjunction with a restaurant.
5. Drive-thru window service in conjunction with uses in Section 22.050(B) and including restaurants, may be allowed.

B. Limitations and conditions on the development of the uses in Section 22.050(A) shall be as follows:

1. The total combined floor area occupied by all the listed uses shall not exceed 10 percent of the total floor area occupied by the permitted use. Formula:  $.10 \times \text{permitted floor area} = \text{listed use floor area}$ .
2. All listed uses shall be located, arranged and integrated within the development to serve primarily the shopping and service needs of employees of the district.

3. No outdoor storage of materials associated with the listed use shall be allowed.
4. Uses shall not be of a type or intensity which produce odor, smoke, fumes, noise, glare, heat or vibrations, which are incompatible with associated permitted uses in the area.
5. All listed uses shall comply with the dimensional and development standards under Sections 22.060 and 22.080.

C. The following uses are allowed in this zone under prescribed conditions:

1. Sign, subject to the provisions of Chapter 52.
2. Temporary use, subject to the provisions of Chapter 35.
3. Water dependent uses, subject to the provisions of Chapters 28, 30 and 34.
4. Wireless Communication Facilities, subject to the provisions of Chapter 57. (ORD. 1408)

## **22.060**

### **CONDITIONAL USES**

A. The following are conditional uses which may be allowed in this zone subject to the provisions of Chapter 60, Conditional Use, and, in addition, the proposed use:

1. Will have minimal adverse impact on the appropriate development of permitted uses on abutting properties and the surrounding area considering location, size, design and operating characteristics of the use.
2. Will not create offensive odor, dust, smoke, fumes, noise, glare, heat or vibrations which are incompatible with permitted uses allowed in this zone.
3. Will be located on a site occupied by a permitted use or a use permitted under prescribed conditions or, if separate, in a structure which is compatible with the character and scale of uses allowed within the district, and on a site no larger than necessary for the use

and operational requirements of the use.

4. Will provide vehicular and pedestrian access, circulation, parking and loading areas which are compatible with similar facilities for uses on the same site or adjacent sites.

B. Uses allowed subject to the above conditions are:

1. Transient lodging and associated convention facilities. (ORD. 1172)
2. Heliports.
3. Retail and service commercial uses.
4. Household hazardous waste depot. (ORD. 1339)

## **22.070**

### **DIMENSIONAL REQUIREMENTS FOR USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

A. The purposes of these requirements and limitations are to:

1. Encourage coordinated development, and the most efficient and maximum use of campus industrial districts.
2. Provide for adequate structure separation to ensure air and light access, and fire safety and protection for all.
3. Provide for a compatible mix of uses supportive of public transportation facilities.
4. Provide for the protection of adjacent properties.
5. Provide for open space and outdoor activity areas.

B. Site area requirements. A site area for purposes of this section shall be the total land area to be developed as a unit, prior to the creation of any new parcels or lots within the land area. A site area may be either of the following:

1. A single tax lot, or two or more contiguous tax lots, under the same ownership.
2. Two or more contiguous tax lots under separate ownership, provided that:

- a. All individual property owners are members of a group formed for the purpose of developing the properties as a single planned development; or,
- b. All individual tax lot ownerships are converted into development shares prior to any building permit being issued for the project; or,
- c. The owners shall record, in the office of the City Recorder, a contract in which all owners agree to subject the use and development of individual tax lots or ownerships to the development plan for the site area as approved by the City. No permit shall be issued on any structure or use not indicated on the City approved development plan for the site area.

C. Minimum site area size requirements.

1. Developments which include uses under at least two of the permitted use categories under Section 22.030, shall require a minimum site area of three acres.
2. Developments which include only uses under Section 22.030(1) through (5), and accessory uses, shall require a minimum site area of two acres.
3. Developments which include only uses under Section 22.030(7) shall require a minimum site area of one acre.

D. Undersized lots. Any permitted use under Section 22.030, and accessory uses, may be established on a lot smaller than the minimum site area requirements which is physically separated from all other undeveloped or underdeveloped properties in this district, or which is approved as a Conditional Use under Section 22.060. Uses under Section 22.050 shall not be included in undersized lot developments.

E. Floor area ratio. The maximum floor area for all permitted and conditional

uses within a site area shall not exceed the net site area multiplied by one (1:1).

- F. Floor area requirements. Any permitted use or combination of permitted uses under Section 22.030 may be allowed within a development in this

district at floor area percentages, excluding accessory uses, not exceeding those illustrated on the following table:

**Floor Area Limitations for Permitted Use Categories Under 22.030**

1, 2, 3, 4, & 5	6	7
100%	70%	100%

Limited uses: Only permitted use floor area may be included for purposes of calculating the allowed limited use floor area for development.

- G. The requirements under Section 22.070 above may be modified or waived by the Director pursuant to the provisions of Section 99.060. Approval shall not be granted, unless the applicant provides evidence substantiating conditions 1-3, or 4, below:
  - 1. The modification or waiver is consistent with the purposes under Section 22.070; and,
  - 2. The need for the use for which additional floor area is requested is at least as great as the need for other compatible permitted uses allowed in this district; and,
  - 3. The proposed use, and location of the use, is compatible with, and complimentary to, existing or proposed developments within the district area; or,
  - 4. A substantial mix of permitted uses has been established within the immediate district area to the extent that all permitted use categories under Section 22.030 are represented.
  
- H. Lot coverage. The maximum lot coverage for all structures shall be 55 percent of the net site area, after any required dedications for roadway purposes. A minimum of 25 percent of the development site area shall be used for landscaping, natural areas or outdoor recreational use area.
  
- I. Minimum perimeter setback is 15 feet.
  - 1. The following uses may be allowed within a perimeter setback area

which fronts on a public road:

- a. Landscaping.
  - b. Bikeways, trails, pedestrian walks and plazas.
  - c. Access driveways.
  - d. Bus shelters and other pedestrian amenities.
  - e. Identification signs.
2. The following uses may be allowed within perimeter setback areas which are adjacent to other site areas:
- a. Landscaping.
  - b. Bikeways, trails, pedestrian walks, patios, courts.
  - c. On-site directional signs.
  - d. Coordinated joint-use circulation drives, parking, loading, recreational activity areas, plazas.
  - e. Coordinated joint-use structures, subject to provisions of the Uniform Building Code.

J. Minimum street frontage is 50 feet.

K. Maximum building height. The maximum building height shall be two and one-half stories or 35 feet for any structure located within 50 feet of a residential zone and three and one-half stories or 45 feet for any structure located 50 feet or more from a residential zone.

L. Corner vision. No sight-obscuring structures or plantings exceeding 30 inches in height shall be located within a 20-foot radius of the lot corner nearest the intersection of two public roads, or from the intersection of a private driveway or easement and a public road. Trees located within a 20-foot radius of any such intersection shall be maintained to allow 10 feet of visual clearance below the lowest hanging branches.

M. Exceptions to dimensional requirements. The requirements for lot coverage, perimeter setback, street frontage and corner vision may be modified in the design review process pursuant to staff review with notice

under Section 99.080. Approval shall not be granted unless:

1. The criteria under Chapter 75 for variances are satisfied; and,

2. The purposes set forth under Section 22.070(A) are addressed and satisfied in the proposed design of the development.

**22.080**

**DEVELOPMENT STANDARDS**

All development within this district is subject to the review procedures and application requirements under Chapter 55. In addition, the following specific standards, requirements, and objectives shall apply to all development in this district:

- A. Building siting and design. The design and siting of structures in this district shall comply with the following:
  1. Particular attention shall be given to the siting and design of all structures, and portions thereof, which may be viewed by the public from inside and outside the development.
  2. When more than one permitted use is to be included in a site area, structures and uses shall be arranged and clustered to maximize opportunities for shared circulation, parking, loading, pedestrian walkways and plazas, recreation areas, transit-related facilities, and day and night surveillance.
- B. Access and on-site circulation. In addition to the provisions of Chapter 48, the location, design and development of on-site circulation shall:
  1. Provide, as appropriate, joint access and circulation drives through and between developments.
  2. Provide continuous pedestrian and bicycle access to permitted, accessory, and uses permitted under prescribed conditions within and between developments, and conveniently located bicycle storage to service the various uses.
  3. Provide on-site directional signing identifying the location of all uses within the development.
  4. Minimize barriers to handicapped and elderly persons.
- C. Parking and loading requirements. The provisions of Chapter 46 shall apply, except as modified to address the following objectives:

1. Locate parking areas to maximize the potential for shared parking between on and off site complementary uses, as provided under Chapter 46.
2. Encourage the provision of priority parking spaces convenient to the building entrances for employee carpool vehicles.
3. Maximize the joint use of truck loading and maneuvering areas between on-site and adjacent off-site complementary uses.
4. Locate necessary commercial or recreational vehicle storage in areas which are generally inappropriate for permitted use parking, and buffer such areas from residential uses. No parking or loading space required under Chapter 46 shall be used for storing a commercial or recreational vehicle.

D. Landscaping. A minimum of 25 percent of the developed site area shall be used for landscaping. The design and development of landscaping in this district shall:

1. Enhance the appearance of the site internally and from a distance.
2. Include street trees and streetside landscaping. (Trees and ground cover shall be selected from those recommended in the adopted design plan, as applicable.)
3. Provide an integrated open space and pedestrian way system within the development with appropriate connections to surrounding properties.
4. Include, as appropriate, a bikeway, pedestrian walkway or jogging trail.
5. Provide buffering or transitions between uses.
6. Encourage outdoor eating areas conveniently located for use by employees.
7. Encourage outdoor recreation areas appropriate to serve all the uses within the development.

- E. Fences. Periphery fences shall not be allowed within this district. Decorative fences or walls may be used to screen service and loading areas, private patios or courts. Fences may be used to enclose playgrounds, tennis courts, or to secure sensitive areas or uses, such as vehicle storage areas or drainage detention facilities. Fences shall not be located where they impede pedestrian or bicycle circulation through or between site areas.
- F. Signs. One free-standing or ground-mounted sign may be provided for a development pursuant to Chapter 52.
- G. Outdoor storage. No outdoor storage of materials shall be allowed within this district.
- H. The requirements of A through G of this section may be modified for developments under the planned unit development provisions of Chapter 24.

**22.090**

**DIMENSIONAL REQUIREMENTS, CONDITIONAL USES**

Except as may otherwise be established by Section 22.070, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in Section 60.070(1) and (2).

**22.100**

**OTHER APPLICABLE DEVELOPMENT STANDARDS**

- A. The following standards apply to all development including permitted uses:
  - 1. Chapter 34, Accessory Structures.
  - 2. Chapter 36, Temporary Uses.
  - 3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
  - 4. Chapter 40, Building Height Limitations and Exceptions.
  - 5. Chapter 42, Clear Vision Areas.
  - 6. Chapter 44, Fences; Screening of Outdoor Storage.
  - 7. Chapter 46, Off-street Parking and Loading.

8. Chapter 48, Access.
9. Chapter 52, Signs.

10. Chapter 54, Installation and Maintenance of Landscaping.
11. Chapter 55, Design Review.

(AMENDED PER ORD. 1408; 2/98)

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## **23.000 GENERAL INDUSTRIAL, GI**

### **23.010 PURPOSE**

The purpose of this zone is to provide for manufacturing, processing and assembling uses which are of a size and scale which makes them generally incompatible with other adjoining non-industrial uses. The uses included in this zone are generally characterized by large buildings and large storage areas and have off-site effects from smoke, odor, noise, dust, lights or other externalities. The zone is intended to implement the policies and locational criteria in the Comprehensive Plan.

### **23.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 23.030, is a use which requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions, Section 23.030, is a use for which approval will be granted provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. The approval of a conditional use (Section 23.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- D. The following Code provisions may be applicable in certain situations:
  - 1. Chapter 65, Non-conforming Uses in Structures.
  - 2. Chapter 66, Non-conforming Structures.

3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances.

**23.030 PERMITTED USES**

The following uses are uses permitted outright in this zone:

1. Agricultural sales and services.
2. Animal sales and services:
  - a. Kennels.
  - b. Veterinary, small and large animals.
3. Automotive and equipment:
  - a. Cleaning.
  - b. Fleet storage.
  - c. Repairs, light and heavy equipment.
  - d. Sales/rentals, light and heavy equipment.
  - e. Storage, recreational vehicles and boats.
4. Construction sales and services.
5. Laundry services.
6. Manufacturing of products:
  - a. From raw materials.
  - b. From previously prepared materials.
7. Packaging and processing.
8. Postal service.
9. Public safety facilities.
10. Public support facilities.
11. Research services.
12. Scrap operations, recycling collection center.
13. Utilities, minor and major.
14. Wholesale, storage and distribution:
  - a. Mini-warehouse.

- b. Light.
- c. Heavy.

**23.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34.

**23.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions:

- 1. Sign, subject to the provisions of Chapter 52.
- 2. Temporary use, subject to the provisions of Chapter 35.
- 3. Water dependent uses, subject to the provisions of Chapters 28, 30 and 34.
- 4. Wireless Communication Facilities, subject to the provisions of Chapter 57. (ORD. 1408)

**23.060 CONDITIONAL USES**

The following uses are conditional uses which may be allowed in this zone subject to the provisions of Chapter 60, Conditional Use:

- 1. Heliport.
- 2. Household hazardous waste depot. (ORD. 1339)

**23.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

A. Except as may be otherwise provided by the provisions of this Code, the following are requirements for uses within this zone:

- 1. The minimum front lot line length of the minimum lot width at the front lot line shall be 50 feet.
- 2. The average minimum lot width shall be 50 feet.
- 3. The average minimum lot depth shall not be less than 90 feet.
- 4. Where the use abuts a residential district, the setback distance of the residential zone shall apply, and in addition, a buffer of up to 50 feet may be required.

5. The maximum lot coverage shall be 50 percent.
  6. The maximum building height shall be two and one-half stories or 35 feet for any structure located within 100 feet of a residential zone and three and one-half stories or 45 feet for any structure located 100 feet or more from a residential zone.
- B. The requirements of 1 through 5 in subsection A of this section may be modified for developments under the planned unit development provisions of Chapter 24.

**23.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in Section 60.070(1) and (2).

**23.090 OTHER APPLICABLE DEVELOPMENT STANDARDS**

- A. The following standards apply to all development including permitted uses:
1. Chapter 34, Accessory Structures.
  2. Chapter 36, Temporary Uses.
  3. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
  4. Chapter 40, Building Height Limitations and Exception.
  5. Chapter 42, Clear Vision Areas.
  6. Chapter 44, Fences; Screening of Outdoor Storage.
  7. Chapter 46, Off-street Parking and Loading.
  8. Chapter 48, Access.
  9. Chapter 52, Signs.
  10. Chapter 54, Installation and Maintenance of Landscaping.
- B. The provisions of Chapter 55, Design Review, apply to all uses except detached single-family dwellings.

(AMENDED PER ORD. 1408; 2/98)

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## **OVERLAY ZONES**

### **24.000 PLANNED UNIT DEVELOPMENT**

#### **24.010 PURPOSE**

The purpose of the Planned Unit Development overlay zone is to provide a means for creating planned environments:

- A. To produce a development which would be as good or better than that resulting from traditional lot by lot development.
- B. To preserve, to the greatest extent possible, the existing landscape features and amenities through the use of a plan that relates the type and design of the development to a particular site.
- C. To correlate comprehensively the provisions of this title, and all applicable plans; to encourage developments which will provide a desirable, attractive, and stable environment in harmony with that of the surrounding area.
- D. To allow flexibility in design, placement of buildings, use of open spaces, circulation facilities, off-street parking areas, and to best utilize the potentials of sites characterized by special features of geography, topography, size, and shape.
- E. To allow a mixture of densities between zoning districts and plan designations when more than one district or designation is included in the development.
- F. To develop projects that are compatible with neighboring development in terms of architecture, massing, and scale. Where that cannot be accomplished, appropriate transitions should be provided that are deferential or sympathetic to existing development.
- G. To carry out the goals of West Linn's Vision, *Imagine West Linn*; especially goals relating to housing, commercial, and public facilities.

#### **24.020 ADMINISTRATION AND APPROVAL PROCESS**

- A. The Planned Unit Development (PUD) zone is an overlay zone and a pre-application conference is a precondition to the filing of an application.

- B. The application shall be filed by the owner of record or authorized agent.
- C. Action on the application shall be as provided by Chapter 99, Procedures for Decision-Making: Quasi-Judicial. (ORD. 1474)

**24.030 EXPIRATION OF APPROVAL**

If no substantial construction has occurred within three years from the date of approval of the final plat or development plan, the application shall be null and void. (ORD. 1408)

**24.040 NON COMPLIANCE - BOND**

- A. Non-compliance with an approved final plat or development plan shall be a violation of this chapter.
- B. The development shall be completed in accordance with the approved final plat or development plan, including landscaping and recreation areas, before any occupancy permit will be issued except that when the Planning Director determines that immediate execution of any feature of an approved final plat or development plan is impractical due to climatic conditions, unavailability of materials, or other temporary condition, the Director shall, as a precondition of the issuance of a required permit, require sufficient funds such as a cashier's check to guarantee completion of the feature at a time certain not to exceed one year.

**24.050 STAGED DEVELOPMENT**

The applicant may elect to develop the site in stages. Staged development is defined as an application that proposes numerous phases or stages to be undertaken over a period of time. Typically, the first phase will be sufficiently detailed pursuant to the submittal standards of CDC Chapter 85. Subsequent phases shall provide the type of use(s); the land area(s) involved; the number of units; generalized location and size (square feet) of commercial, industrial, or office projects; parks and open space; street layout, access, and circulation; etc. Generalized building footprints for commercial, office, public, and multi-family projects and parking lot layout will be required. Staged development shall be subject to the provisions of Section 99.125.

**24.060**

**AREA OF APPLICATION**

- A. Planned Unit Developments (PUDs) may be established in all residential, commercial, and industrial districts on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes of this section.
- B. All qualifying non-residential, all mixed use developments, and all qualifying residential developments of five or more lots shall be developed as PUDs with the Hearings Officer as the decision-making body, while all qualifying residential developments of four or fewer lots shall be developed as a PUD with the Planning Director as the decision-making body, whenever one of the following qualifying criteria apply:
  - 1. Any development site composed of more than 25 percent of Type I or Type II lands, as defined by Section 24.060(C), shall be developed as a PUD.
  - 2. More than 20 percent of the dwelling units are to be attached on common wall except in the R-3 and R-2.1 zones. A PUD is not required in R-3 and R-2.1 zones where common wall/multi-family projects are proposed. However, other criteria (such as density transfer, mixed uses, etc.) may trigger a PUD.
  - 3. A large area is specifically identified by the Planning Director or Planning Commission as needing greater design flexibility, increased open space, or a wider variety of housing types. (ORD. 1408)

**24.070**

**EXEMPTIONS FROM PLANNED UNIT DEVELOPMENT REQUIREMENTS**

A Planned Unit Development (PUD) shall not apply in cases where all the following conditions exist:

- 1. No density transfer is proposed pursuant to provisions of this Chapter.
- 2. No development, construction, or grading will take place on Type I and II lands.

3. All the Type I and II lands shall be dedicated to the City as open space, or protected by easement with appropriate delineation.

#### **24.080**

#### **SUBMITTAL REQUIREMENTS**

The submittal requirements shall apply to non-exempt projects as identified in Section 55.025, and shall include the following: (ORD. 1408)

1. Narrative discussing proposal and applicability of the PUD and addressing approval criteria of this chapter and Design Review Section 55.100.
2. Narrative and table showing applicable density calculations.
3. Map showing how the densities will be distributed within the project site.
4. Compliance with submittal requirements of Chapter 55, Design Review, including full response to approval criteria for Chapter 55, Design Review, and Chapter 85, if it is a single-family PUD.
5. Narrative, tables, and showing all density transfers.
6. Tables and maps identifying all Type I, II, III and IV lands by acreage, location and type (please refer to definitions of these lands in CDC Chapter 2). (ORD. 1463)
7. Other material as required by the Planning Director.

#### **24.090**

#### **APPLICABILITY AND ALLOWED USES**

Subject to the provisions of Sections 24.080, 24.070 and 24.090, the PUD Overlay Zone may be applied to all residential, commercial, and industrial zones.

- A. In addition to the uses allowed outright in the underlying zone the following uses shall be allowed outright where all other applicable standards are met.
  1. Single-family, duplex, attached housing and multiple family housing.
  2. Community buildings.
  3. Indoor recreation facility, athletic club, fitness center, racquet ball court, swimming pool, tennis court, or similar use.
  4. Outdoor recreation facility, golf course, swimming pool, tennis court, or similar use.

5. Recreation vehicle storage area.
6. Public safety facilities.
7. Major or minor utilities.
8. Religious institution, day care center, public or private schools.

(ORD. 1463)

B. Any commercial uses listed under the Neighborhood Commercial (NC) zone shall be allowed in the manner provided by the base zone or adopted plan document and, in addition, the applicant must prove:

1. The uses are for the purpose of primarily serving the residents of the proposed development; and,
2. There is a need for the type and amount of commercial space. A market analysis may be required.
3. The use will reduce vehicle miles traveled (VMT) between residents and existing neighborhood commercial locations.

## **24.100**

### **APPROVAL CRITERIA**

A. The approval criteria of Section 55.100, Design Review, shall apply to non-exempted projects per Section 55.025. Single-family detached, single family attached, and duplex residential units proposed shall comply with the provisions of Chapter 43 at time of building permit application. (Ord. 1463) (Ord 1547)

B. The application shall also demonstrate compliance with the following criteria:

1. The proposal shall preserve the existing amenities of the site to the greatest extent possible by relating the type and design of the development to the topography, landscape features, and natural amenities existing on the site and in the vicinity.
2. The proposed PUD shall provide a desirable, attractive, and stable environment in harmony with that of the surrounding area through thorough, well developed, detailed planning and by comprehensively correlating the provisions of this Code and all applicable adopted plans.

3. The placement and design of buildings, use of open spaces, circulation facilities, off-street parking areas, and landscaping shall be designed to best utilize the potentials of the site characterized by special features of geography, topography, size, and shape.
  4. The PUD shall be developed so that it is compatible with neighboring development in terms of architecture, massing, and scale. Where that cannot be accomplished, appropriate transitions shall be provided that are deferential or sympathetic to existing development.
- C. All densities, density transfers, transitions, density bonuses, and proposed setbacks shall conform to provisions of this chapter as required by Sections 24.080, 24.110 to 24.170 inclusive.

**24.110 RESIDENTIAL DENSITY CALCULATIONS**

- A. The PUD allows density to be transferred on residential portions of the site. The following sections explain how the allowed number of dwelling units per acre is calculated. The standards are also intended to ensure that PUDs and adjoining developments are compatible and maintain a sense of neighborhood unity.
- B. Net acres for land to be developed with detached single-family dwellings, or multi-family dwellings including duplexes, is computed by subtracting the following from the gross acres:
1. Any land area which is included in a boundary street right-of-way or water course, or planned open space areas if density transfer is not requested.
  2. An allocation of 25 percent for public or private facilities (e.g., streets, paths, right-of-way, etc.) or when a tentative plat or plan has been developed, the total land area allocated for public or private facilities.
  3. A lot of at least the size required by the applicable base zone, if an

existing dwelling is to remain on the site.

- C. The allowed density or number of dwelling units on the site, subject to the limitations in Sections 24.140 and 24.150 is computed by dividing the number of square feet in the net acres by the minimum number of square feet required for each lot, by the base zone.

**24.120 EXAMPLES OF RESIDENTIAL DENSITY CALCULATIONS**

When density is to be transferred on a land area with Type I or Type II land, the following procedure will apply:

**EXAMPLE**

**FACTS:**

**RIGHT OF WAY:**

PUBLIC	(59,677 sq. ft.)	
PRIVATE	(33,106 sq. ft.)	2.13 AC

**OPEN SPACE:**

DEDICATION TO CITY	(60,113 sq. ft.)	
COMMON OWNERSHIP	( 2,614 sq. ft.)	1.44 AC

**SINGLE-FAMILY USE:**

TYPE I & II LANDS	(104,000 sq. ft.)	
TYPE III & IV LANDS	(197,433 sq. ft.)	<u>6.92 AC</u>

**GROSS SITE AREA: 10.49 AC**

**DENSITY CALCULATIONS:**

	GROSS SITE AREA	10.49 AC.
(-)	RIGHT-OF-WAY	<u>2.13 AC.</u>
	NET SITE AREA	8.36 AC.

**OPEN SPACE:**

(1.44 Ac. x 100% transfer -  
10,000 sq. ft. min. lot size) = 6.27 lots

**TYPE I & II LANDS DEVELOPED**

(104,000 sq. ft. x 50% developable -  
10,000 sq. ft. min. lot size) = 5.2 lots

**TYPE III & IV LANDS DEVELOPED**

(197,435 sq. ft. x 100% developable -  
10,000 sq.ft. min. lot size) = 19.74 lots

**TOTAL ALLOWED DENSITY:**

**31 LOTS**

**24.130**

**ALLOWABLE DENSITY ON TYPE I AND II LANDS**

A. This table relates to the allowed density of development on Type I and II lands. Development means when the footprint of a home is placed on Type I or II lands, or when over 50 percent of the lot comprises Type I or II lands. Generally speaking, the greater the constraints, the lower the density; and the lower the constraints, the higher the allowable density. Please note that density transfers from constrained lands generally allows a 50-100 percent transfer. The rationale for only a 50 percent transfer is that these lands have historically been of marginal development value (e.g., wetlands, 52 percent slopes, etc.); so to say those lands should have the same 100 percent development value and potential as less constrained lands, would be wrong since they are tougher to build on and they are generally appraised at a lower land value than flatter, more developable sites.

There are three categories of allowable density: 1) "building not allowed;" 2) allowable density "when developed;" and, 3) allowable density "when transferred." The first category means that no building is allowed in, for example, slopes over 50 percent or in wetlands. The prohibition is represented by an "X." The second category means that if a developer wants to develop an area, that it can only be developed at 50 percent of normal density or not at all. The third category, "when transferred," explains what percentage of the normal density of the Type I and II lands can be transferred to on-site non Type I and II lands.

B.

<b>Type I or Type II lands</b>	<b><u>Allowable Density*</u></b>		
	<b><u>Building Not Allowed</u></b>	<b><u>When Developed</u></b>	<b><u>When Transferred</u></b>
Slopes			
25 - 35%		50%**	75%
35 - 50%		X	75%
More than 50%	X	X	50%

Confirmed Land				
Slide Hazards	X	X	50%	
Flood Management				
100 year flood plain	X	X	50%	
Floodway	X	X	50%	
Water Quality Resource Area	X	X	50%	
Significant Natural Areas	X	X	50%	
Significant Tree/Tree Clusters on Type I and II Lands	X	X	50%	
Significant Tree/Tree Clusters on Non-Type I and II Lands (ORD. 1408)		X	X	100%
Planned Public Open Space/ Regional Storm Treatment Facility***	X	X	100%	

\* Development of single-family detached residences on pre-existing lots of record are exempt from this chart; most restrictive density governs in the event of conflict or overlap.

\*\* The "50 percent allowable density when developed" means that if we reduce the number of homes on constrained lands, we reduce the hazard potential which typically increases with higher density and increased site disturbance. Consequently, the density is reduced in half (50%). That means that to develop on a predominantly steep lot would require twice the minimum lot size of the underlying zone (e.g., you would need a 20,000 square foot lot in the R-10 zone). When Type I and II lands are to be developed, the 70 percent rule shall not apply to those areas; it shall only apply to the developable net area as defined in CDC Section 85.200(J)(7).  
(ORD. 1408)

**24.140 TRANSITIONS AND LIMITATIONS ON DENSITY TRANSFER**

A. Because the PUD and the provisions of this chapter allow increased residential densities and various housing types, it is necessary that some kind of transition be provided between the project site and the surrounding properties. These transitions will, for example, mitigate the impacts of multi-family housing next to single-family housing. Transitions are not required in all cases, however. The following exceptions shall apply:

1. Single-family PUD next to single-family non-PUD does not
2. require a transition (e.g., even though it is R-5 single-family next to R-10, etc.). Also, similar type housing does not need to transition (e.g., duplex next to duplex).
2. Two housing units attached side by side by common wall are considered compatible with detached single-family units; but,
3. More than two attached housing units (e.g., a triplex) are not considered compatible with a single-family detached unit; however,
4. Where a proposed residential unit is to be located at least 200 feet from the nearest existing single-family home, the provisions of Section 24.140(B)(1-5) below shall not apply. The 200-foot transition must be on the subject property. All parking and access shall be a 20-foot minimum setback from abutting property line, unless the approval authority, based upon the City Engineer's recommendation, approves a circulation plan which supports reduced transition to accommodate joint access between adjoining properties.

B. Where transitions are required, they shall be satisfied by at least one of the following provisions:

1. An intervening street or driveway that is existing, platted or specifically proposed in the Transportation Master Plan and has a minimum width of 24 feet.
2. Natural topography such as a drainageway or wetland that provides adequate horizontal separation (minimum 40 feet), or a cliff or embankment that provides adequate vertical separation which shall be defined as having the PUD site at least 10 feet below the abutting non-PUD site, plus vegetation for adequate screening. The natural topography may be on an adjoining parcel.
3. Man-made berm (5 feet minimum height) with landscaping for adequate screening with a 40-foot minimum width. This transition

must be on the subject parcel.

4. The on-site lot sizes for detached single-family homes adjacent to each property line shall not be smaller than a lot 75 percent of the minimum size of the lot size allowed on the abutting lots by the applicable zone, or 7,000 square feet, whichever is less; or,
5. A horizontal separation of at least 200 feet between on- and off-site structures. The 200-foot transition must be on the subject site.

**24.150 DENSITY BONUSES**

- A. Although the density may be reduced by Section 24.130 above, applicants are encouraged to seek density bonus credits under such categories as "site planning and design excellence." The permitted number of dwelling units may be increased up to 29 percent above those computed under the formula above based on a finding of the Planning Director that the Density Bonus credits have been satisfied as set forth in the following section and in Section 24.160:
- B. **Site planning and design excellence** allows additional units up to the maximum indicated on the chart when excellence in site planning and building design is demonstrated with respect to neighborhood compatibility, recreation space, security and crime prevention, and livability of on-site environment, as determined through design review. Examples of quality design features which may be used to address the foregoing include, but are not limited to:
  1. Maximum retention and integration of natural features into site design in addition to open space areas dedicated to the City. (ORD. 1463)
  2. Minimize impervious surfaces. Locate parking facilities and garages at the rear of buildings accessed by alleys. De-emphasis of the automobile is encouraged through placement of parking at side or rear of buildings (reference Section 55.100(A)(2)).
  3. Maximize recreation and open spaces in addition to open space

areas dedicated to the City. (ORD. 1463)

4. Superior landscape plan in terms of quantity of materials and quality represented by size of plant/tree, variety of plant/tree, and mix to allow seasonal colors. The landscape plan should incorporate available natural site features (e.g., rock outcroppings, creeks, etc.). The landscape plan should relate to or complement on-site buildings, frame views, and show sensitivity to the micro-climate. Other landscape elements may include rockeries, ornamental pools, and pathways.
5. Architectural design that emphasizes high quality materials, finish, texture, and craftsmanship. Architectural complexity and richness of detail are sought. Contextual design that draws from the predominant architecture of the area is preferred over contrasting design. Only examples of manifestly outstanding contrasting design would be acceptable alternatives to the contextual approach. The design should accommodate the human scale with multiple light windows, appropriately scaled entryways, and porches. Facades should be broken up into multiple elements, both horizontally and vertically. Variations in the building silhouette and depth is also desirable.
6. Integration of various housing types and densities supported by neighborhood commercial uses and basic services.
7. Well articulated pedestrian and bikeway path system and public transit system, if applicable, that unifies the development site and connects with adjacent development and destinations. Transit facilities are important. (ORD. 1463)

- C. The City shall encourage and assist in the accumulation of density bonus developments. The final density allowed will depend on the following factors:

1. The amount of density allowed shall be rounded up to the next figure when any partial figure of one-half or greater results from adding the percentage density increase to the base density.
2. The development shall be subject to all applicable development standards of this ordinance. The Planning Director may recommend that the proposed design of the development be modified to ensure that development standards are satisfied. Modifications of design may include, but are not limited to the following:
  - a. Reduction in building coverage.
  - b. Clustering of buildings.
  - c. Redesign of parking or street layout.
  - d. Protection of resource areas.

**24.160 DENSITY BONUS CHART**

The cumulative density bonus for all categories except for design excellence or low cost housing cannot exceed 20 percent. To achieve the maximum 29 percent density bonus, the application must qualify for the low cost housing bonus, the design excellence bonus, or both. (ORD. 1463)

<b><u>Bonus Category</u></b>	<b>LOW DENSITY</b>	<b>MEDIUM DENSITY</b>	<b>HIGH</b>
<b>DENSITY</b>	<b>% of increase <u>(R-20,15,10,7, 40)</u></b>	<b>% of increase <u>(R-5 &amp; 4.5)</u></b>	<b>% of increase <u>(R-2.1, 3.0)</u></b>
1. <u>Low-Cost Housing:</u> At least 20 percent of the dwelling units must qualify and be approved for lower income occupants under a federal, state, or local program. (See also senior housing bonus associated with R-4.5, R-3 and R-2.1 zones)	5%	8%	8%
2. <u>Common wall units:</u> At least 20 percent of the dwelling units must be common wall.	5%	n/a	n/a

- |    |  |          |          |          |
|----|--|----------|----------|----------|
| 3. | <u>Park Dedication:</u><br>Improved site area is dedicated and accepted by the City or other public agency, as usable, accessible park land. In Tanner Basin, where System Development Charge (SDC) credits are given for certain dedications of open space, the density bonus may result in reduced SDC compensation.   | 5%/½ ac. | 8%/½ ac. | 4%/½ ac. |
| 4. | <u>Design Excellence:</u><br>The development satisfies the criteria for exceptional design, pursuant to 24.150.  | 15%      | 15%      | 15%      |
| 5. | <u>Natural Area/Resource Dedication of non-con-</u><br>strained lands (Type I and II lands and lands devoted to preservation of significant trees) pursuant to CDC Section Includes, but is not limited to trails, paths, trail-head construction where appropriate. The City has the authority to refuse such dedication for the purpose of bonus density if the City determines that the dedication would provide no significant benefits to the City. | 5%/½ ac. | 5%/½ ac. | 5%/½ ac. |

(ORD. 1463)

NOTE: To interpret the above table, 8%, for example, means the development may increase density by that amount. The "5%/½ ac." notation means that density can increase by 5% for every ½-acre of park land that is dedicated.

**24.170 USABLE OPEN SPACE REQUIRED**

Residential planned unit developments (PUDs) shall comply with the following usable open space requirements:

1. PUDs that contain multi-family units shall comply with the requirements of Section 55.100(F).
2. PUDs that contain 10 or more single-family detached, single-family attached, or duplex residential units shall comply with the following usable open space requirements.
  - a. The plan shall include an open space area with at least 300 square feet of usable area per dwelling unit.
  - b. The usable open space shall meet the design requirements of Section 55.100(F)(2).

- c. The usable open space shall be owned in common by the residents of the development unless the decision-making authority determines, based upon a request from the applicant and the recommendation of the City Director of Parks and Recreation, that the usable open space should be dedicated to the City for public use. If owned in common by the residents of the development then a homeowner’s association shall be organized prior to occupancy to maintain the usable open space.
- d. If the usable open space contains active recreational facilities such as hard surface athletic courts or swimming pools, then the usable open space area shall not be located on the perimeter of the development unless buffered by a transition pursuant to CDC Section 24.140(B).

(ORD. 1463)

**24.180 APPLICABILITY OF THE BASE ZONE PROVISIONS**

The provisions of the base zone are applicable as follows:

- A. Lot dimensional standards. The minimum lot size and lot depth and lot width standards do not apply except as related to the density computation under Chapter 24.
- B. Lot coverage. The lot coverage provisions of the base zone shall apply for detached single-family units. For single-family attached residential units, duplex residential units, and multiple-family residential units, the

following lot coverage provisions shall apply, based upon the underlying base zone.

R-40, R-20	35 percent
R-15	40 percent
R-10, R-7	45 percent
R-5, R-4.5	50 percent
R-3, R-2.1	60 percent

(ORD. 1442)

- C. Building height. The building height provisions of the underlying zone shall apply.
- D. Structure setback provisions.
1. Setback areas contiguous to the perimeter of the project shall be the same as those required by the base zone unless otherwise provided by the base zone or Chapter 55.
  2. The side yard setback provisions shall not apply except that all detached structures shall maintain a minimum side yard setback of five feet, or meet the Uniform Building Code requirement for fire walls.
  3. The side street setback shall be 10 feet.
  4. The front yard and rear yard setbacks shall be 15 feet. Porches may encroach forward another five feet. Additional encroachments, such as porches, are allowed per CDC Chapter 38.
  5. The setback for a garage in the front yard that opens onto the street shall be 20 feet unless the provisions of Section 41.010 apply. Garages in the rear yard may meet the standards of Section 34.050.
  6. The applicant may propose alternative setbacks. The proposed setbacks must be approved by the decision-making body and established as conditions of approval, or by amendment to conditions of approval. The decision-making body will consider among other things maintenance of privacy, adequate light, defensible space, traffic safety, etc.
- E. All other provisions of the base zone shall apply except as modified by this chapter.

**24.190 PUD AMENDMENT TRIGGER**

Amendments to PUDs shall be required when 10 percent or more of the housing type changes (e.g., from single-family units to multi-family units) from the tentatively approved PUD plan, or when there is more than a 10 percent change in the number of units, or when the layout of streets and lots significantly changes. Amendments shall require review per Section 99.120.

(AMENDED PER ORD. 1474; 9/01; ORD. 1547; 2/07)

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## **25.000 HISTORIC DISTRICT**

### **25.010 PURPOSE**



The intent and purpose of this overlay district is to implement the goals and policies of the Comprehensive Plan for the Historic District, and promote the public health, safety, and general welfare by safeguarding the City's heritage as embodied and reflected in its historic resources. The provisions of this section are intended to:

- A. Provide for the identification, protection, enhancement, and use of sites, structures, corridors, objects, and buildings within the City that reflect special elements of the City's architectural, archeological, artistic, cultural, engineering, aesthetic, historical, political, social, and other heritage. In addition to the Willamette District, this Code section also contemplates creation of new districts as appropriate.
- B. Facilitate restoration and upkeep of historic buildings, structures or other physical objects or geographical areas;
- C. Encourage public knowledge, understanding and appreciation of the City's history and culture;
- D. Foster community and neighborhood pride and sense of identity based on recognition and use of cultural resources;
- E. Promote the enjoyment and use of historic and cultural resources appropriate for the education and recreation of the people of the City;
- F. Preserve diverse architectural styles reflecting phases of the City's history, and encourage complimentary design and construct impacting cultural resources;
- G. Enhance property values and increase economic and financial benefits to the City and its inhabitants;

- H. Identify and resolve conflicts between the preservation of cultural resources and alternative land uses; and,
- I. Integrate the management of cultural resources and relevant data into public and private land management and development processes.

**25.015**

**APPLICABILITY**

The provisions of this chapter shall apply to all properties and structures within the Willamette Historic District boundary as depicted on the map referenced in section 25.030. The single-family residential design standards that apply to homes elsewhere in West Linn shall not apply to homes within the historic district. (ORD. 1538)

**25.020**

**PERMITTED USES**

- A. The residentially zoned portion of the Willamette Historic District, and other historic districts established under Section 25.050 of this Code, shall permit only single-family detached residential uses. Home occupations shall be processed pursuant to Chapter 37 of this Code.
- B. The commercially zoned portion shall allow uses appropriate to that zone as described in Chapter 19 with consideration of its historic status.
- C. Existing structures and uses that do not conform to these standards shall be regarded under the provisions of Chapters 66 and 67.
- D. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any architectural features which does not involve a change in design, material or the outward appearance of such features which the Building Inspector shall certify is required for the public safety because of its unsafe or dangerous condition.
- E. National Historic Register structures or Historic Landmarks in the Historic District shall comply with the provisions of Chapter 25.

**25.030**

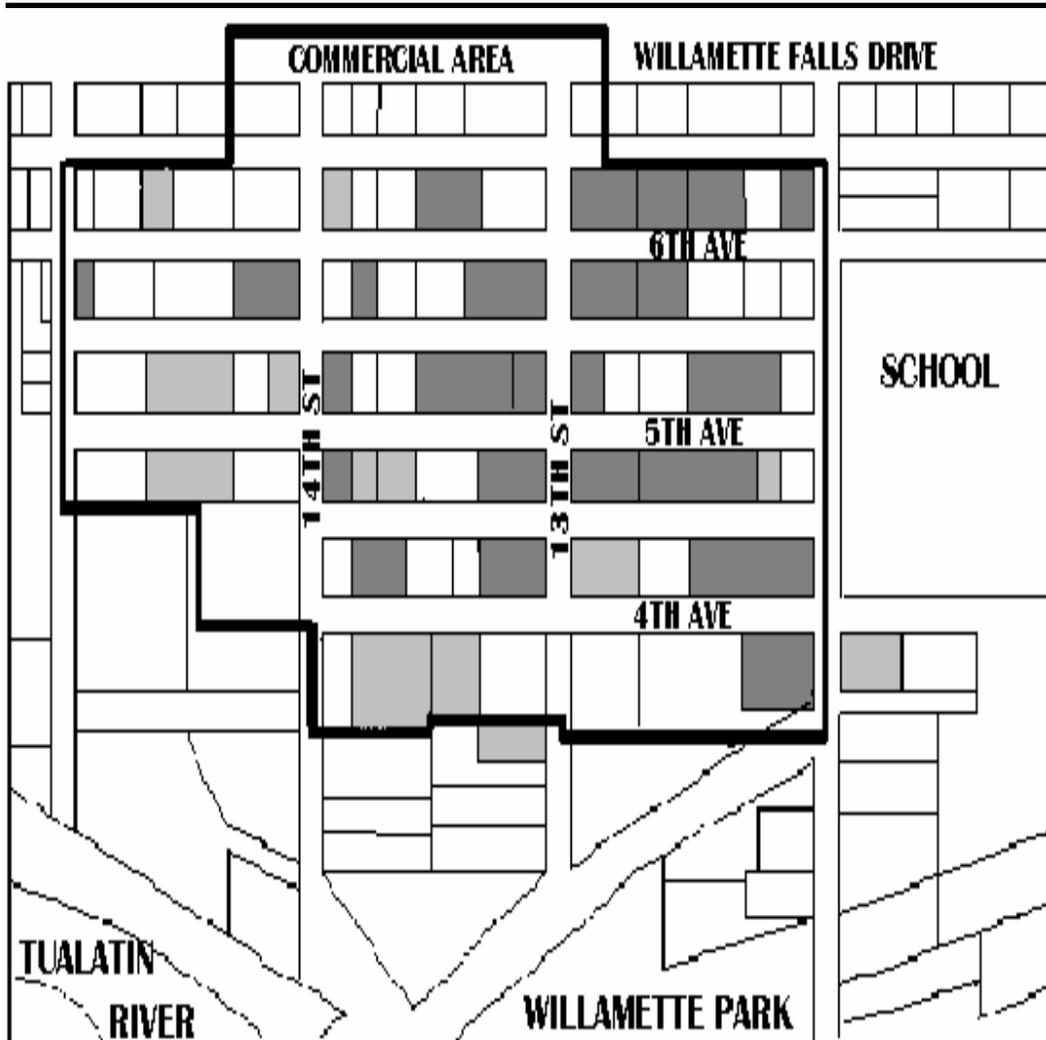
**DEFINITIONS AND BOUNDARY DELINEATION**

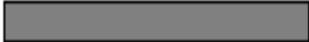
- A. The attached map (Figure 1) identifies existing boundaries for the Willamette Historic District. The map identifies "primary" and "secondary" residential structures within the District bounds. The boundary excludes areas lacking character defining structures, while

retaining as many "primary" and "secondary" structures as possible. Several potentially buildable lots are included in the boundary. These parcels, if sensitively developed, could enhance the historic image of this seven block area.

FIGURE 1

# WILLAMETTE HISTORIC DISTRICT



<b>PRIMARY STRUCTURES</b> -----	
<b>SECONDARY STRUCTURES</b> ----	
<b>BOUNDARY</b> -----	

**ADOPTED** (AMENDED APR. 1991; ORD.1298)  
**MAY 14, 1986** (AMENDED SEPT.1985; ORD.1172)



B. Primary Structures. Structures which significantly define the district's

character are called "primary" contributing. These structures were constructed between 1890-1920; most original architectural features (i.e., windows, roof forms, porches, siding) remain intact. These structures represent the community's best remaining examples of turn-of-the-century architectural styles. All but two of the "primary" structures are listed in the Clackamas County Cultural Resource Inventory, 1984.

- C. **Secondary Structures.** Structures built before 1925 which retain many original architectural features, but not identified in Clackamas County's "Cultural Resource Inventory" are identified as "secondary" contributing. Some vernacular architecture may have been introduced to the structure. "Secondary" structures also represent styles popular during the turn-of-the-century.
- D. **Contributing Structures.** Structures (i.e., bungalows, etc.) built after 1925 in the Old style. Additions or remodels to these structures should be consistent with provisions of this chapter.
- E. **Non-Contributing Structures.** Structures built after 1925 in styles that are generally incompatible with area architecture; for example, a 1955 ranch style home. To require such homes to be remodeled under this Code's provisions with a Victorian cupola or fish scale siding shingles, would violate Code sections that seek time period consistency and seek to avoid architectural mimicry.

## 25.040

### HISTORIC REVIEW BOARD

- A. For the purpose of this ordinance, the decisions regarding alterations within Historic District and recommendations for designation of Historic Districts shall be accomplished by the Clackamas County Historic Review Board.

- B. **Appointment and composition.** The City Council shall appoint two individuals who have demonstrated an interest in historic preservation, and have experience and/or special expertise or knowledge in the field of historic preservation, and may fulfill the requisites of the Historic Review Board and composition pursuant to 707.04 of the County's Code. The remaining five members of the Board are standing members responsible for reviewing applications for all of Clackamas County. Their appointment is made through Clackamas County government.
- C. **Terms of service.** The aforementioned two members of the Historic Review Board shall be appointed for three years and may be re-appointed or replaced at the discretion of the City Council.
- D. **Duties and responsibilities.** It is the responsibility of the Historic Review Board to ensure that the purposes of this section are implemented and to perform the following duties:
1. Adopt rules to govern its deliberations and decisions, including a method to record its proceedings.
  2. Carry out the duties described for it in this Ordinance and otherwise assist the Board of County Commissioners and West Linn City Council on historic preservation matters.
  3. Review and render decisions on proposals to alter the exterior of a Historic Landmark subject to the procedures and criteria set forth in CDC Chapter 26.
  4. Review and render decisions on all proposed new construction on property on which a Historic Landmark is located, subject to the procedures and criteria set forth in Chapter 26 of this Code.
  5. Review and make recommendations on all applications for zoning of a Historic Landmark, as provided under CDC Chapter 26.
  6. Review all requests for demolition or removal of a Historic Landmark, as provided under CDC Chapter 26.

7. Review and make recommendations to the Planning Commission on all conditional use applications under Chapter 26 of this Code.
8. Review and make recommendations on all partitions and subdivisions of designated properties.
9. Disseminate information to educate the public as to state and federal laws protecting antiquities and historic places.
10. Act as a coordinator for local preservation groups, educational workshops, signing and monumentation projects, and other similar programs.
11. Advise interest groups, agencies, boards, commissions, and citizens on matters relating to historic preservation within the City.
12. Insure that information on inventoried historic properties is updated and maintained.
13. Provide opportunities for the ongoing education and training of Board members in architecture and historic preservation.

**25.045 APPEALS OF HISTORIC REVIEW BOARD**

Appeals of Historic Review Board are heard by the City Council pursuant to Chapter 99, Procedures for Decision-Making: Quasi-Judicial. (ORD. 1474)

**25.050 CRITERIA FOR HISTORIC DISTRICT DESIGNATION**

- A. Approval of an Historic District designation shall be made when the Historic Review Board finds that any of the following criteria have been met:
1. Whether the proposed district or landmark would serve the purpose of the Historic District as stated in Section 25.010.
  2. Reflects the broad cultural or natural history of the community, state, or nation.
  3. Is identified with historic personages or with important events in national, state, or local history. Archeological sites would also be included.

4. Embodies the distinguishing characteristics of an architectural specimen inherently valuable for a study of a period, style, or method of construction.
  5. Is a notable work of a master builder, designer, or architect.
- B. The age of a specific building shall not be deemed sufficient in itself to warrant designation as historic.

**25.060**

**CRITERIA FOR EXTERIOR ALTERATION AND NEW CONSTRUCTION**

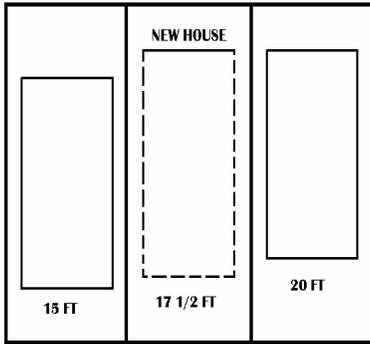
- A. Except as provided pursuant to Section 25.100, no person may alter the exterior of any structure in an Historic District in a manner as to affect its exterior appearance, nor may any new structure be constructed in an Historic District, unless the site and evaluation drawings are approved by the Historic Review Board.
- B. Exterior remodeling as governed by this chapter shall include any change or alteration in design or other exterior treatment excluding painting.
- C. For new home construction or exterior alterations of structures in an Historic District, the criteria to be used by the Historic Review Board in reaching the decision shall include the following:
1. The purpose of the Historic District as set forth in Section 25.040.
  2. The policies of the West Linn Comprehensive Plan.
  3. The economic use of the structure in an Historic District and the reasonableness of the proposed alteration and their relationship to the public interest in the structure's or landmark's preservation or renovation. (Applicable to commercial only.)
  4. The value and significance of the structure or landmark in an Historic District. (Applicable to remodeling only.)
  5. The physical condition of the structure or landmark in an Historic District. (Applicable to remodeling only.)

6. The general compatibility of exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used with an existing structure in an Historic District.
7. Pertinent aesthetic factors as designed by the Historic Review Board.
8. Economic, social, environmental and energy consequences related to LCDC Goal #5.

**25.070 CONSTRUCTION/REMODEL STANDARDS**

A. For new home construction, remodels and single-family structures in the Willamette Historic District (and landmark structures as appropriate), the Historic Review Board shall use the following design standards in reaching a decision.

B. **SITING.**



1. Front yard: A distance measured to the dominant vertical face of the building, equal to the average of the front setbacks of adjacent "primary" or "secondary" structures. Where there are no adjacent primary or secondary structures, the setback shall be 15 feet.
2. Side yard: Five feet shall be the standard; however, where adjacent structures encroach into the required side yard, the Planning Director may reduce one of the side yards to a minimum of three feet to center a new structure between existing buildings, provided no space between buildings is reduced below eight feet.
3. Rear yard: The rear yard setback shall be a minimum of 20 feet, except for accessory structures, which may be sited to within 3 feet of the side or rear property lines.
4. New construction on corner lots must face the avenue.

C. **PARKING.** Parking in Willamette Town traditionally was handled from the alleys or along the "streets" (as opposed to avenues). Detached garages

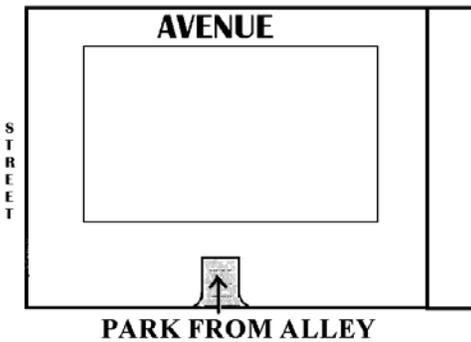
along the alleys or "streets" characterizes many homes in the district. Alleys were established to provide for parking out of view; with this older pattern, garages are much less dominant than in newer residential areas.

1. Standards, Garages:

- a. Garages shall be accessed from the alley. Where no alley exists, access to a garage may be from the street.
- b. Garage remodels and new construction must match house or existing garage building materials. Damaged or deteriorated non-conforming garages must be reconstructed / relocated in accordance with this Code where remodeling or rebuilding costs exceed 50% of the full replacement cost in current dollars.
- c. Typically, the garage pitch wasn't as steep as the house. Some architectural styles of garages have lower pitched roofs. Garage roof pitch shall not exceed house roof pitch.
- d. Garages located within the rear yard may have a zero foot side yard setback so long as it is constructed with one hour fire walls, with no openings in wall and no overhang, per City building standards. The three foot rear setback shall still apply.

2. Standards, Parking:

- a. No residential lot shall be converted solely to parking use.
- b. All vehicle access and storage (i.e., boats, camper shells, trails, recreational vehicles, etc.) shall be stored or parked in the rear of the property as opposed to the front or side yards.
- c. On corner lots or where homes face streets, the parking and storage shall be located on the alley side of the house.



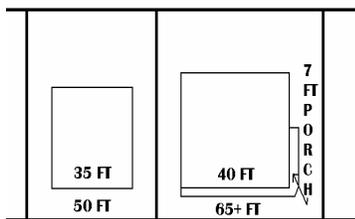


- d. No front yard curb cut shall be established unless it is determined by City Engineer that all reasonable access alternatives have been exhausted.
- e. The parking provisions of Section 26.050(B) shall apply to any non-conforming uses of a structure (i.e., bed and breakfast.) These provisions would not apply to General Commercial zone uses in the Historic District. (ORD. 1565)

D. **BUILDING HEIGHT.** Buildings in Willamette Town vary in height, most evident are 1-1/2 story Victorians and bungalows. Some buildings reach 2-1/2 stories, and there are several single story structures as well.

1. No building shall exceed the height of any primary structure in the district so that the existing neighborhood scale is maintained.
2. No building shall exceed 2-1/2 stories. Cupolas and towers are excluded from the aforementioned height limitation; however, no such structure may exceed the height of any existing cupola or tower in the district.
3. Existing building heights should be maintained.
4. Alteration of roof pitches or raising or lowering a structure's permanent elevation, when constructing a foundation, shall be avoided.
5. The original height of "primary" and "secondary" structures shall be preserved.

E. **BUILDING SHAPES AND SIZES.**



1. No building on a 50-foot wide lot shall exceed 35 feet in overall width. Lots with a 65 foot width or greater may have a building width of 40 feet plus the porches, eaves or veranda extensions so that the maximum total width is 47 feet.
2. End walls (street facing) should be designed with consideration of scale and aesthetic character of the main facade.

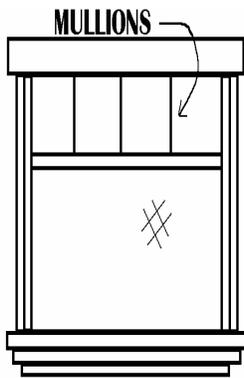
3. Buildings should avoid a horizontal orientation in their roof and window designs, unless the design can be shown to respond to nearby structures and styles. Buildings in districts other than the Willamette District shall be designed and oriented as appropriate to that area as determined by the Historic Review Board with consideration of Section 25.060(3).

F. **SIGNS AND LIGHTING.** Signs, lighting, and other appurtenance such as walls, fences and awnings, shall be visually compatible with the scale and traditional architectural character of the historic building.

G. **HORIZONTAL ADDITIONS.**

1. The scale and proportion of building additions, including the relationship of windows to walls, shall be visually compatible with the traditional architectural character of the historic building.
2. Contemporary construction for alterations and additions are acceptable if the design respects the building's original design and is compatible with the original scale, materials, window and door opening proportions of the structure.

H. **WINDOWS.** Window sizes vary considerably in the district. Windows on the primary and secondary structures are wood sash, usually a double hung type. Victorian styled structures typically have narrower, vertically-oriented windows. Bungalow styled structures from the "Craftsman" era (1905-1930) may have wider windows with mullions across the top of larger paned areas. Most windows have fairly wide trim boards, usually 5 inches.



Standards:

1. Wood sash windows are preferred.
2. "Mill aluminum" (shiny) windows are prohibited. Matte finish anodized/coated aluminum windows are permitted so long as they meet dimensional standards.

3. Windows shall be surrounded by exterior trim on the top and sides; window trim shall be at least 4-1/2 inches minimum width.
4. Window replacements shall match the visual qualities of original windows as closely as possible; this does not require wood windows. Non-wood window replacements must exhibit similar visual qualities as their wooden counterparts. The original number of window "lights" (i.e., panes) shall be maintained or restored when replacements are required.
5. Alterations to the rear of a house, or to other portions not visible from the public right-of-way (exclusive of alleys) need not adhere to the design standards contained herein.
6. Storm windows should follow the standards for windows. Matte finish anodized/coated frames are permitted. The 4-1/2 inch trim is not required for the storm windows. The color should match underlying trim.

I. **ENTRYWAYS.** Porches are a key architectural feature on most homes in Willamette Town. Frequently, the porch and entryway creates a dominant architectural feature on the main facade. On corner lots, the entry usually faces the east-west avenues. Front doors are often notably detailed; many contain glass panes or carvings. Standards:

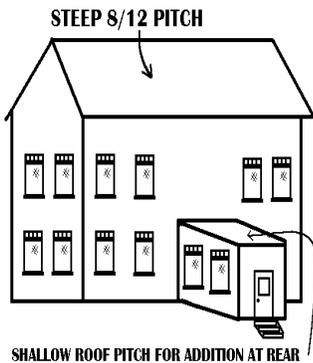
1. Buildings shall have a permanently protected entry. Awnings are not permanent protection.
2. All main entrances should face the avenues.
3. Flush (flat) doors are prohibited.
4. Doors with windowed areas are recommended. Front porch enclosure of any dwelling unit may not be enclosed. Back porches may be enclosed.

J. **SIDING AND EXTERIOR FINISH.** Standards:

1. Horizontal wood siding shall be the primary exterior finish.

2. Shingles should only be used in conjunction with horizontal wood siding.
3. Single color exteriors are discouraged. Stained exteriors are not recommended.

K. **ROOFSCAPE.** Standards:



1. Roofs shall have a pitch of at least 8/12 to maintain the pattern of steep roof pitches. The Historic Review Board will consider deviations from the 8/12 to 12/12 standard for additions to the main body of the house so long as it is consistent with a particular architectural style.
2. Roofing materials should be composite shingles. Cedar shakes were not used in period construction. Milled cedar shingles were used and are permitted.
3. Alternating, patterned or checkerboard shingles are not permitted.

**25.080 ADDITIONAL ARCHITECTURAL SPECIFICS FOR NEW CONSTRUCTION AND REMODELING**

Many houses in Willamette are rich in architectural detail. Certain architectural components are used in fairly specific ways. Standards:

- A. Distinguishing original qualities defining a structure's character shall not be destroyed. Removal or alteration of historic (i.e., original) materials or distinctive architectural features should be avoided when possible.
- B. Houses and other structures shall be recognized as products of their own time. Alterations that have no historical basis or which seek to create an earlier appearance shall be avoided.
- C. Distinctive stylistic features, or examples of skilled craftsmanship which characterize a structure, shall be maintained or restored, if possible.
- D. Deteriorated architectural features shall be repaired rather than replaced, whenever possible.

- E. In the event replacement is necessary, new materials should match the material being replaced in composition, design, color, texture, and other visual qualities.
- F. Alterations to the rear of a house, or to other portions not visible from the public right-of-way (exclusive of alleys), need not adhere to the design standards contained herein.
- G. Contemporary designs for alterations and additions would be acceptable if the design respects the building's original design, and it is compatible with the original scale, materials, window and door opening proportions of the structure.
- H. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the original structure could be restored.

**25.090**

**COMMERCIAL REMODELS AND NEW CONSTRUCTION**

- A. Construction of new commercial businesses or remodeling of businesses in the Commercial district shall emphasize contextual design, style, material and period consistency. The Historic Review Board may consider applicable portions of Section 25.080, "Additional Architectural Specifics," and Section 25.060, "Criteria for Exterior Alteration and Construction."
- B. Setbacks should be consistent with adjacent uses or between 0-10 feet.
- C. Underlying zone provisions of the Commercial zone shall apply except for the off-street parking requirements which are waived under Chapter 46.

**25.100**

**MINOR ALTERATIONS AND MAINTENANCE**

The Planning Director shall determine the status of a proposed alteration. Minor alterations shall be reviewed and approved by the Planning Director, who may consult with the Historic Review Board, or any member thereof, in applying the provisions of this section. An alteration shall be considered "minor" when the result of the proposed action is to maintain or restore portions of the exterior to

the original historic appearance while performing normal maintenance and repairs, such as:

- A. Replacement of gutters and downspouts, or the addition of gutters and downspouts, using materials that match those that were typically used on similar style buildings.
- B. Repairing, or providing a compatible new foundation that does not result in raising or lowering the building elevation.
- C. Replacement of building material, when required due to deterioration of material, with building material that matches the original material.
- D. Repair and/or replacement of roof materials with the same kind of roof materials existing, or with materials which are in character with those of the original roof.
- E. Application of storm windows made with wood, bronze, or flat finished anodized aluminum, or baked enamel frames which complement or match the color detail and proportions of the building and match the number of pains of the underlying window.
- F. Replacement of wood sashes with new wood sashes, or the addition of wood sashes, when such is consistent with the original historic appearance. Non-wood window materials are allowed so long as the visual quality effectively simulates traditional wood windows.
- G. Additions of solar equipment which, when removed, do not destroy essential elements of the building's character-defined features may be allowed if such equipment is not visible from the public right-of-way. New flush-mounted solar panels may be mounted with a southerly aspect, preferably out of sight or screened from the public right-of-way. Solar panels may be located in the rear of property following the standards for TV satellite dishes of CDC 34.020(A)(3).
- H. Accessory structures under 120 square feet and 10 feet in height (greenhouses, storage sheds, jacuzzis, spas, structures, gazebos, etc.) are exempt where they are located in the side or rear yard.

- I. In-ground swimming pools are exempt in the side or rear yard.
- J. Above-grade pools must be in the side or rear yard with adequate screening.
- K. Fences in the front yard should be time period consistent.
- L. Other improvements may be determined by the Planning Director to be exempt so long as their impact is no greater than improvements exempted by other sub-sections of 25.100.

**25.110 PARTITIONS AND SUBDIVISIONS**

The Historic Review Board shall review and make recommendations on all proposed partitions or subdivisions of sites within the district or at the landmark site. Review of the proposed subdivision or partition shall be based on the following criteria:

- A. The partition or subdivision does not allow a significant feature of the original site, as identified in the designation action and inventory, to be located on a separate site from the landmark.
- B. The partition or subdivision allows adequate setbacks from landmark improvements to provide for buffering and mitigation of impacts associated with development of the new parcels.
- C. Minor partition of corner parcels shall orient the new lots so that they front onto the adjacent avenue rather than onto the adjacent street.

**25.120 BUILDING CODE REQUIREMENTS**

- A. **Permits Required:** Any alteration or relocation of a Historic Landmark shall be subject to the applicable regulations under the Uniform Building Code or superseding codes of the Building Department.
- B. **Waivers:** As provided in Section 104(f) of the Uniform Building Code, repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of an Historic District structure or Landmark structure, may be made without conformance to all the requirements of the Uniform Building Code when authorized by the Building Official, provided:

1. Any unsafe conditions as described in the Uniform Building Code are corrected;
2. The restored building or structure will be no more hazardous, based on life safety, fire safety, and sanitation, than the existing building; and,
3. The Building Official seeks the advice of the Oregon State Historic Preservation Officer, or designee.

C. **Appeals**. In the case of appeals related to the application of the Uniform Building Code to a Historic District or Landmark structure, the appropriate appeals board should seek the advice of the State Historic Preservation Officer.

**25.130 DEMOLITION**

**Purpose**: The intent of this sub-section is to protect structures within the Historic District from destructive acts, and to provide the citizens of the City time to review the significance of a structure, and to pursue options to preserve such building(s), if historic preservation is deemed in the best interest of the community. Refer to Section 26.080 for provisions relating to demolition. (ORD. 1425)

**25.140 APPLICATION AND SUBMITTAL REQUIREMENTS**

**Standard requirements**: All applications for alteration, relocation, development, or demolition made pursuant to this section shall include:

- A. A pre-application conference with the Planning Director is required prior to formal submittal. The Director shall determine the appropriateness of the proposal and the completeness of the materials to be submitted. The Director may consult with members of the Historic Review Board in this process.
- B. The application is made with appropriate fees being paid. The applicant shall submit a written narrative explaining the proposal and how it meets the approval criteria. In cases involving construction, the applicant shall provide scaled site plans, elevations of the structure, and construction

plans. A list of materials and proposed colors is required. Material boards/color samples may be needed. Photography may be used in certain cases. The exact requirements shall be explained by staff.

- C. The hearing, public notice, appeal, and enforcement provisions of Chapter 99 shall apply.

(AMENDED PER ORD. 1474; 9/01)

(AMENDED PER ORD. 1515; 2-05, ORD. 1538; 6/06; ORD. 1574 2/07  
ORD. 1565 4/08)

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## **26.000 HISTORIC LANDMARKS**

### **26.010 PURPOSE**

The intent and purpose of this overlay district is to implement the goals and policies of the Comprehensive Plan for Historic Landmarks and promote the public health, safety, and general welfare by safeguarding the City's heritage as embodied and reflected in its historic resources. The provisions of this section are intended to:



- A. Provide for the identification, protection, enhancement, and use of sites, structures, corridors, objects, and buildings within the City that reflect special elements of the City's architectural, archeological, artistic, cultural, engineering, aesthetic, historical, political, social, and other heritage.
- B. Facilitate restoration and upkeep of historic buildings, structures or other physical objects or geographical areas;
- C. Encourage public knowledge, understanding and appreciation of the City's history and culture;
- D. Foster community and neighborhood pride and sense of identity based on recognition and use of cultural resources;
- E. Promote the enjoyment and use of historic and cultural resources appropriate for the education and recreation of the people of the City;
- F. Preserve diverse architectural styles reflecting phases of the City's history, and encourage complimentary design and construction impacting cultural resources;
- G. Enhance property values and increase economic and financial benefits to the City and its inhabitants;
- H. Identify and resolve conflicts between the preservation of cultural resources and alternative land uses; and
- I. Integrate the management of cultural resources and relevant data into public and private land management and development processes.

**26.020**

**AREA OF APPLICATION**

A. The provisions of Chapter 26 shall apply to all designated historic districts within the City, as delineated on the West Linn Zoning Map, and all Historic Landmarks as listed below:

1. 4600 ALDER STREET
2. 1448 BUCK STREET
3. 1562 BUCK STREET
4. 1646 BUCK STREET
5. 1690 BUCK STREET
6. 1715 BUCK STREET
7. 1850 BUCK STREET
8. 1739 DOLLAR STREET
9. 5495 GROVE STREET
10. 5350 RIVER STREET
11. 5575 RIVER STREET
12. 4708 RIVERVIEW AVENUE
13. 4742 RIVERVIEW AVENUE
14. 5797 ROBERT MOORE STREET
15. 4918 SUMMIT ROAD
16. 20375 WILLAMETTE DRIVE
17. 20685 WILLAMETTE DRIVE
18. 20725 WILLAMETTE DRIVE
19. 22825 WILLAMETTE DRIVE - CITY HALL
20. 22830 WILLAMETTE DRIVE
21. 22840 WILLAMETTE DRIVE
22. 21420 WILLAMETTE DRIVE
23. 4835 WILLAMETTE FALLS DRIVE
24. 4845 WILLAMETTE FALLS DRIVE
25. 4865 WILLAMETTE FALLS DRIVE
26. 4891 WILLAMETTE FALLS DRIVE

27. 1352 WILLAMETTE FALLS DRIVE
28. 1742 WILLAMETTE FALLS DRIVE
29. 1832 WILLAMETTE FALLS DRIVE

(ORD. 1377)

- B. A site, structure, or object may be zoned an Historic Landmark if it is listed on the "National Register of Historic Places," or approval of an Historic District designation shall be made when the Planning Commission finds that any of the following criteria have been met:
  1. Whether the proposed district or landmark would serve the purpose of the Historic District as stated in Section 26.010.
  2. Reflects the broad cultural or natural history of the community, state, or nation.
  3. Is identified with historic personages, or with important events in national, state or local history.
  4. Embodies the distinguishing characteristics of an architectural specimen inherently valuable for a study of a period, style, or method of construction.
  5. Is a notable work of a master builder, designer, or architect.
- B. The age of a specific building shall not be deemed sufficient in itself to warrant designation as historic.
- C. The single family residential design standards that apply to homes elsewhere in West Linn shall not apply to historic landmark structures identified in section 26.020(A). Setbacks and lot coverage standards of the underlying zone shall, however, apply. The standards will apply to both infill development and homes within new subdivisions. (ORD. 1538)

## **26.030**

### **PERMITTED USES**

- A. **Primary uses.** An Historic Landmark may be used for any use which is allowed in the underlying district, including home occupations, provided such use is not detrimental to the preservation of the historic resource, subject to the specific requirements for the use, and all other requirements of this section.

B. **Conditional use findings.** Uses listed below under Section 26.030(C), which are not otherwise allowed in the underlying district, may be allowed subject to the specified review procedure. Approval shall not be granted unless the proposal satisfies the criteria under Chapter 60 (Conditional Use Permit), and the applicant demonstrates that the use, if allowed:

1. Will preserve or improve a resource which would probably not be preserved or improved otherwise;
  2. Will not require the extension or development of urban services in rural areas;
  3. Will not adversely affect surrounding natural resource uses; and
  4. Will utilize existing structures rather than new structures.  
Alterations and additions to existing structures shall satisfy the provisions of Chapter 60.

C. **Public hearing review.** The following uses may be permitted by the Planning Commission after a public hearing is conducted pursuant to Chapter 99 when the proposal satisfies the requirements under 26.030(B) above:

1. Art and music studios.
2. Galleries.
3. Offices.
4. Craft shops.
5. Bed and breakfast establishments.
6. Gift shops.
7. Museums.
8. Catering services.
9. Book stores.
10. Boutiques.
11. Restaurants.
12. Antique shops
13. Community center for civic or cultural events.

14. Other uses determined by the Planning Commission to be similar to those listed above.

## 26.040

### HISTORIC REVIEW BOARD

- A. For the purpose of this ordinance, the decisions regarding alterations to Historic Landmarks and within historic districts, and recommendations for designation of historic landmarks or districts, shall be accomplished by the Clackamas County Historic Review Board.
- B. **Appointment and composition.** The City Council shall appoint two individuals who have demonstrated an interest in historic preservation, and have experience and/or special expertise or knowledge in the field of historic preservation, and may fulfill the requisites of the Historic Review Board and composition pursuant to 707.04 of the County's Code.
- C. **Terms of service.** The members of the Historic Review Board shall be appointed for three years, and may be re-appointed or removed at the discretion of the City Council.
- D. **Duties and responsibilities.** It is the responsibility of the Historic Review Board to insure that the purposes of this section are implemented, and to perform the following duties:
  1. Adopt rules to govern its deliberations and decisions, including a method to record its proceedings.
  2. Carry out the duties described for it in this Ordinance and otherwise assist the Board of County Commissioners and West Linn City Council on historic preservation matters.
  3. Review and render decisions on proposals to alter the exterior of an Historic Landmark subject to the procedures and criteria set forth in Section 26.060.
  4. Review and render decisions on all proposed new construction on property on which an Historic Landmark is located, subject to the procedures and criteria set forth in Section 26.060.
  5. Review and make recommendations on all applications for zoning

- of an Historic Landmark, as provided under Section 26.050.
6. Review all requests for demolition or removal of an Historic Landmark, as provided under Section 26.080.
  7. Review and make recommendations to the Planning Commission on all conditional use applications under Section 26.030(B).
  8. Review and make recommendations on all partitions and subdivisions of designated properties.
  9. Disseminate information to educate the public as to state and federal laws protecting antiquities and historic places.
  10. Act as a coordinator for local preservation groups, educational workshops, signing and monumentation projects, and other similar programs.
  11. Advise interest groups, agencies, boards, commissions, and citizens on matters relating to historic preservation within the City.
  12. Insure that information on inventoried historic properties is updated and maintained.

**26.045 APPEALS OF HISTORIC REVIEW BOARD**

Appeals of Historic Review Board are heard by the City Council pursuant to Chapter 99, Procedures for Decision-Making: Quasi-Judicial. (ORD. 1474)

**26.050 PROCESS FOR DESIGNATION OF A HISTORIC LANDMARK**

- A. **City-initiated action.** The Historic Review Board, City Council or interested parties may initiate the process for designation of an Historic Landmark. If the Historic Review Board or City Council initiates the process, notice shall be as required under Chapter 98.
- B. **Quasi-judicial application.** The owner(s) of property, or properties, may request the zoning of their property, or properties, as an Historic Landmark(s) by making application to the City. Notice requirements shall be as provided for zone change/plan change actions under Chapter 99.
- C. **Historic Review Board evaluation.** The Historic Review Board shall evaluate the proposed zoning action and shall enter findings and make a written recommendation to the City Council.

- D. **City Council public hearing.** The City Council shall conduct a public hearing to consider the proposed zoning action and shall either approve or deny the request. The Council shall enter written findings supporting its decision.
- E. **Pending permits.** No building permit for altering or moving any proposed Historic Landmark shall be issued while any advertised public hearing or any appeal affecting the proposed designation of the area or building is pending. In addition, demolition of a building affected by a pending public hearing or appeal under this Section shall be a violation of this Ordinance.

**26.060**

**ALTERATION AND DEVELOPMENT CRITERIA**

- A. **Purpose.** It is the intent of this Section to provide for the appropriate level of review for proposed alterations and development within Historic Districts, or those affecting Historic Landmarks, and to provide criteria insuring effective and efficient review of proposed alterations and development.
- B. **Minor alterations and maintenance.** The Planning Director shall determine the status of a proposed alteration. Minor alterations shall be reviewed and approved by the Planning Director who may consult with the Historic Review Board, or any member thereof, in applying the provisions of this Section. An alteration shall be considered "minor" when the result of the proposed action is to maintain or restore portions of the exterior to the original historic appearance while performing normal maintenance and repairs, such as:
  - 1. Replacement of gutters and downspouts, or the addition of gutters and downspouts, using materials that match those that were typically used on similar style buildings.
  - 2. Repairing or providing a compatible new foundation that does not result in raising or lowering the building elevation.
  - 3. Replacement of building material, when required due to deterioration of material, with building material that matches the original material

4. Repair and/or replacement of roof materials with the same kind of roof materials existing, or with materials which are in character with those of the original roof.
5. Application of storm windows made with wood, bronze or flat finished anodized aluminum, or baked enamel frames which complement or match the color detail and proportions of the building.
6. Replacement of wood sashes with new wood sashes, or the addition of wood sashes, when such is consistent with the original historic appearance.
7. Additions of solar equipment which, when removed, do not destroy essential elements of the building's character-defined features may be allowed if such equipment is not visible from the public right-of-way.

C. **Alterations and relocations.** The Historic Review Board shall review all proposed relocations and all alterations which exceed a "minor" status under Section 26.060(B), above. A request for a relocation or alteration permit under this provision shall be made on the appropriate application form provided by the Department of Planning and Development. Review and approval of an application shall be based on findings of adherence to the following criteria:

1. Retention of original construction: Distinguishing original qualities defining a structure's character shall not be destroyed. Removal or alteration of historic materials or distinctive architectural features should be avoided when possible.
2. Time period consistency: Structures shall be recognized as products of their own time. Alterations which have no historical basis or which seek to create an earlier appearance shall be avoided.
3. Visual integrity/style: Distinctive stylistic features, such as a line of columns, piers, spandrels, or other primary structural elements, or

examples of skilled craftsmanship which characterize a structure, shall be maintained or restored as far as is practicable.

4. Replacement or addition materials: Whenever possible, deteriorated architectural features shall be repaired rather than replaced. In the event replacement of an existing feature is necessary or an addition is proposed, new materials should match those of the original structure to the extent possible in composition, design, color, texture, and other visual qualities.
5. Building height: Existing building heights should be maintained. Alteration of roof pitches shall be avoided. Raising or lowering a structure's permanent elevation when constructing a foundation shall be avoided, except as required by Building Code or flood plain overlay zone.
6. Horizontal additions: The scale and proportion of building additions, including the relationship of windows to walls, shall be visually compatible with the traditional architectural character of the historic building. Contemporary construction for alterations and additions are acceptable if the design respects the building's original design and is compatible with the original scale, materials, window and door opening proportions of the structure.
7. Windows: Window replacements shall match the visual qualities of original windows as closely as possible. Wood window frames are preferred in meeting this standard. However, if non-wood replacements exhibit similar visual qualities as their wooden counterparts, they may be acceptable. The original number of window panes shall be maintained or restored when replacements are required.
8. Restoration possible: Except where Building Code precludes it, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in

the future, the essential form and integrity of the original structure could be restored.

9. Signs, lighting: Signs, lighting, and other appurtenances, such as walls, fences, awnings, and landscaping, shall be visually compatible with the scale and traditional architectural character of the historic building.

D. **New Construction**. This Historic Review Board shall review all building permits for proposed structures on a landmark site or within a Historic District. Review and approval of an application shall be based on the following criteria:

1. For new single-family construction (including added square footage) in the Willamette Historic District, the Historic Review Board shall use the following design standards in reaching a decision:

a. **SITING**:

Front yard: A distance, measured to the dominant vertical face of the building, equal to the average of the front setbacks of adjacent "primary" or "secondary" structures.

Where there are no adjacent primary or secondary structures, the setback shall be 15 feet.

Side yard: Five feet shall be the standard; however, where adjacent structures encroach into the required side yard, the Historic Review Board may reduce one of the side yards to a minimum of three feet to center a new structure between existing buildings, provided no spaces between buildings are reduced below eight feet.

Rear yard: The rear yard setback shall be a minimum of 20 feet, except for accessory structures, which may be sited to within three feet of the side or rear property lines.

b. **PARKING STANDARDS**:

Garages: Garages shall be accessed from the alleys or "streets." No garage door may face or access onto an "avenue" except where no alley access is available.

Parking: No residential lot shall be converted solely to parking use. No rear yard area shall be converted solely to parking use. At least one paved parking space, which may be covered, shall be provided on-site.

- c. BUILDING HEIGHT STANDARDS: No building shall exceed the height of any primary structure in the district. No building shall exceed 2-1/2 stories. Cupolas and towers are excluded from the aforementioned height limitation; however, no such structure may exceed the height of any existing cupola or tower in the district.
- d. BUILDING SHAPES AND SIZES STANDARDS: No building shall exceed 35 feet in overall width. End-wall (street facing) gables should not exceed 28 feet in overall width. Buildings should avoid a horizontal orientation in their roof and window designs, unless the design can be shown to respond to nearby primary structures.
- e. ROOF PITCH STANDARDS: Roofs shall have a pitch of at least 6/12. A pitch of 8/12 to 12/12 is recommended.
- f. ARCHITECTURAL DETAILS:
  - Entryway standards: Buildings shall have a permanently protected entry. (Awnings are not permanent protection.) All main entrances should face the avenues. Flush (flat) doors are prohibited. Doors with windowed areas are recommended.
  - Window standards: Wood sash windows are preferred. "Mill aluminum" (shiny) windows are prohibited. Windows shall be surrounded by exterior trim on the top

and sides; window trim shall be at least 4-1/2 inches minimum width.

Siding and exterior finish standards: Horizontal wood siding shall be the primary exterior finish. Shingles should only be used in conjunction with horizontal wood siding. Single color exteriors are discouraged. Painted exteriors rather than stained are recommended.

- E. **Partitions and subdivisions.** The Historic Review Board shall review and make recommendations on all proposed partitions or subdivisions of sites designated as a landmark site. Review of the proposed subdivision or partition shall be based on the following criteria:
1. The partition or subdivision does not allow a significant feature of the original site, as identified in the designation action and Inventory, to be located on a separate site from the landmark.
  2. The partition or subdivision allows adequate setbacks from landmark improvements to provide for buffering and mitigation of impacts associated with development of the new parcels.

## 26.070

### **BUILDING CODE REQUIREMENTS**

- A. **Permits required.** Any alteration or relocation of an Historic Landmark shall be subject to the applicable regulations under the Uniform Building Code.
- B. **Waivers.** As provided in Section 104(f) of the Uniform Building Code, repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of an Historic District structure or Landmark structure, may be made without conformance to all the requirements of the Uniform Building Code when authorized by the Building Official, provided:
1. Any unsafe conditions as described in the Uniform Building Code are corrected;

2. The restored building or structure will be no more hazardous, based on life safety, fire safety, and sanitation, than the existing building; and,
  3. The Building Official seeks the advice of the Oregon State Historic Preservation Officer, or designee.
- C. **Appeals.** In the case of appeals related to the application of the Uniform Building Code to an Historic Landmark, the County appeals board or the appropriate State appeals board shall seek the advice of the State Historic Preservation Officer.

## 26.080

### DEMOLITION

- A. **Purpose.** The intent of this sub-section is to protect Historic Landmarks from destructive acts and to provide the citizens of the City time to review the significance of an Historic Landmark, and to pursue options to preserve such building(s) if historic preservation is deemed in the best interest of the community.
- B. **Review required.** No building identified as an Historic Landmark, shall be intentionally destroyed or demolished unless such action is approved by the Historic Review Board. Application for a permit to demolish or otherwise destroy such building shall be made to the Department of Planning and Development, when applicable.
- C. **Public hearing review.** The Historic Review Board shall hold a public hearing, under the provisions and procedures in Chapter 98 to review the request to demolish or destroy an Historic Landmark, and shall make written findings supporting its decision to approve or deny the request.
- D. **Criteria and findings.** In determining the appropriateness of the request to destroy or demolish an Historic Landmark, the Historic Review Board shall consider the following:
1. All plans, drawings, and photographs submitted by the applicant.
  2. Information presented at the public hearing concerning the

proposed work.

3. The West Linn Comprehensive Plan.
4. The purposes of this Ordinance as set forth in Section 26.010.
5. The criteria used in the original designation of the Historic Landmark in which the property under consideration is situated.
6. The historical and architectural style, the general design, arrangement, materials of the structure in question, or its appurtenant fixtures; the relationship of such features to the other buildings within the district; and the position of the building in relation to public rights-of-way and to other buildings and structures in the area.
7. The effects of the proposed work upon the protection, enhancement, perpetuation and use of the district which cause it to possess a special character or special historical or aesthetic interest or value.
8. Whether denial of the permit will involve substantial hardship to the applicant, and whether approval of the request would act to the substantial detriment of the public welfare, and would be contrary to the intent and purposes of this chapter.
9. When applicable, the findings of the Building Official in determining the status of the subject building as a "dangerous building" under the most recent Uniform Code for the Abatement of Dangerous Buildings, and the feasibility of correcting the deficiencies to meet the requirements of the Building Official rather than demolishing the building.

E. **Approval of demolition request/appeals.** The Historic Review Board may approve the demolition request in consideration of the provisions under Section 26.090(D), above. The action of the Historic Review Board shall be transmitted to the applicant in writing within 10 days of the decision on the request, and shall be final on the 15th day from the date of

mailing of the notice of final decision pursuant to Section 99.150, unless a notice of appeal is filed by any aggrieved party, pursuant to Section 99.250.

- F. **Denial/appeals.** The Historic Review Board may deny the request for demolition or destruction of an Historic Landmark if it determines that in the interest of preserving historic values, the building should not be demolished or destroyed. Written findings supporting the denial of the request shall be transmitted to the applicant on the request. The action of the Historic Review Board denying the request may be appealed to the City Council within 30 days of the date of the letter and written findings denying the request. This extended appeal period is provided to allow time for evaluation of the alternatives to destruction or demolition of the subject building by the applicant and/or the Historic Review Board.
- G. **Stay of demolition.** If the subject of the demolition request is under a Notice and Order of the Building Official, as provided under Chapter 4 of the Uniform Code for the Abatement of Dangerous Buildings, and the application is denied by the Historic Review Board, the written findings supporting the action to deny the request shall be transmitted to the Building Official along with a request that the enforcement of the Notice and Order for the Building Official be stayed during the pendency of an appeal, or for a period of not more than 60 days from the date of the letter and findings supporting the denial. During this stay of demolition period, the following actions may be taken:
1. The Building Official may require the owner or other party responsible for the subject building to take appropriate actions, other than demolition, to protect the public from hazardous conditions associated with the building.
  2. The Historic Review Board may research programs or projects underway which could result in public or private acquisition of the subject building and site, and assess the potential for the success of

these programs or projects:

- a. If the Board determines that there is reasonable grounds to believe that such program or project may be successful, it may extend the suspension period up to 30 additional days per extension, not to exceed more than a total of 120 days from the date of the letter and finding denying the request.
  - b. If the Board determines that all such programs or projects are unlikely to be successful, and the applicant has not withdrawn his application for a demolition permit or taken appropriate alternative action to correct the hazards associated with the subject building as provided in the Notice and Order of the Building Official, then, at the end of the stay of demolition period, the Building Official may issue such a permit, subject to all other applicable codes and ordinances.
3. Action of the Historic Review Board, in suspending issuance of the permit for demolition, may be appealed by the applicant to the City Council by filing a notice of appeal as provided in Section 99.250.

## 26.090

### SUBMITTAL REQUIREMENTS

- A. **Standard requirements.** All applications for alteration, relocation, development, or demolition made pursuant to this Section shall include:
1. A list of exterior materials pertinent to the application request.
  2. Drawings:
    - a. Side elevation for each side of any affected structure.
    - b. Drawings shall indicate dimensions and be to scale.
    - c. Photographs may be used in lieu of drawings for small projects.
  3. Plot plans shall be required when new structures, fences, relocations, or additions exceeding 50 square feet are proposed.
- B. **Evidence and criteria materials.** An application shall include written

evidence and other materials necessary to address the specific criteria in support of the request, and other information necessary to allow complete review of the proposal.

- C. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any architectural features which does not involve a change in design, material or the outward appearance of such feature which the building inspector shall certify is required for the public safety because of its unsafe or dangerous condition.

(AMENDED PER ORD. 1474; 9/01, ORD. 1538;6/06)

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## **27.000 FLOOD MANAGEMENT AREAS**

### **27.010 PURPOSE**

The purpose of CDC Chapter 27 is to create a Flood Management Area Overlay Zone in order to protect flood management areas that are identified on the flood management area map incorporated by reference as a part of CDC Chapter 27. Flood management areas contain land identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for Clackamas County, Oregon, and incorporated areas, “ dated June 17, 2008 with accompanying Flood Insurance Maps; the area of inundation for the February 1996 flood based on data provided by Metro; and lands that have physical or documented evidence of flooding within recorded history. Flood management areas provide the following functions: protect life and property from dangers associated with flooding; flood storage, reduction of flood velocities, reduction of flood peak flows and reduction of wind and wave impacts; maintain water quality by reducing and sorting sediment loads, process chemical and organic wastes and reduce nutrients; recharge, store, and discharge groundwater; provide plant and animal habitat; and support riparian ecosystems. (ORD 1522) (ORD 1565)

### **27.020 APPLICABILITY**

A flood management area permit is required for all development in the Flood Management Area Overlay Zone. The standards that apply to flood management areas apply in addition to state or federal restrictions governing floodplains or flood hazard areas.

### **27.030 EXEMPTIONS**

CDC Chapter 27 does not apply to work necessary to protect, repair, or maintain, existing public or private structures, utility facilities, roadways, driveways, accessory uses, and exterior improvements, or replace small public structures, utility facilities, or roadways in response to emergencies. Within thirty days after the work has been completed, the party responsible for the work shall initiate a flood management permit designed to analyze any changes effectuated during the emergency and mitigate adverse impacts. (ORD 1522)

**27.040 PROHIBITED USES**

Prohibited uses in flood management areas include the following:

- A. Any use prohibited in the base zone.
- B. Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality.

**27.045 CRITICAL FACILITIES**

Construction of new critical facilities shall be, to the greatest extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall only be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

**27.050 THE APPLICATION**

Applications for a flood management area permit must include the following:

- A. A pre-application conference as a prerequisite to the filing of the application.
- B. An application initiated by the property owner, or the owner's authorized agent, and accompanied by the appropriate fee.
- C. An application submittal that includes the completed application form and three copies of written responses addressing CDC Sections 27.060, 27.070, 27.080 (if applicable), and 27.090 (if applicable), three copies of all maps and plans at the original scale, and three copies of all maps and plans reduced to a paper size not greater than 11 x 17 inches.

- D. A map of the parcel indicating the nature of the proposed alteration and its relationship to property zones, structures, trees, and any other pertinent features of the parcel.
- E. Information regarding the elevation of the site prior to development, the base flood elevation data for subdivisions (if applicable), and a description of water course alterations, if proposed.
- F. A topographic map of the site at contour intervals of five feet or less showing a delineation of the flood management area, which includes, but is not limited to, areas shown on the Flood Management Area map. The City Engineer or Building Official, as applicable, may, at his/her discretion, require the map to be prepared by a registered land surveyor to insure accuracy. A written narrative explaining the reason why the owner wishes to alter the floodplain shall accompany the site plan map.
- G. The elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- H. The elevation in relation to mean sea level to which any structure has been flood proofed (non-residential only).

**27.060 APPROVAL CRITERIA**

The Planning Director shall make written findings with respect to the following criteria when approving, approving with conditions, or denying an application for development in flood management areas.

- A. Development, excavation, and fill shall be performed in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations.
- B. No net fill increase in any floodplain is allowed. All fill placed in a floodplain shall be balanced with an equal amount of soil material removal. Excavation areas shall not exceed fill areas by more than 50 percent of the square footage. Any excavation below bankful stage shall not count toward compensating for fill.
- C. Excavation to balance a fill shall be located on the same parcel as the fill unless it is not reasonable or practicable to do so. In such cases, the

excavation shall be located in the same drainage basin and as close as possible to the fill site, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.

- D. Minimum finished floor elevations must be at least one foot above the design flood height or highest flood of record, whichever is higher, for new habitable structures in the flood area.
- E. Temporary fills permitted during construction shall be removed.
- F. Prohibit encroachments, including fill, new construction, substantial improvements, and other development in floodways unless certification by a professional civil engineer licensed to practice in the state of Oregon is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- G. All proposed improvements to the floodplain or floodway which might impact the flood carrying capacity of the river shall be designed by a professional civil engineer licensed to practice in the state of Oregon.
- H. New culverts, stream crossings, and transportation projects shall be designed as balanced cut and fill projects or designed not to significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in flood management areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.
- I. Excavation and fill required for the construction of detention facilities or structures, and other facilities, such as levees, specifically shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable land.
- J. The applicant shall provide evidence that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required. (ORD 1522)

**27.65**

**INTERPRETATION OF FLOOD BOUNDRIES**

The Planning Director shall make interpretations, where needed, as to exact location of the boundaries of the flood hazard area (for example, where there appears to be a conflict between mapped boundaries and the actual filed condition). Any person contesting the location of the boundary may appeal the Planning Director's interpretation pursuant to Section 01.060 of this Code. (ORD 1522)

**27.070 CONSTRUCTION MATERIALS AND METHODS**

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage using methods and practices that minimize flood damage.
- B. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- C. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- D. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- E. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- F. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

**27.080 RESIDENTIAL CONSTRUCTION**

- A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.
- B. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a

professional civil engineer or architect licensed to practice in the state of Oregon, and must meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
2. The bottom of all openings shall be no higher than one foot above grade.
3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry or exit of floodwaters.
4. Fully enclosed areas below the base flood elevation shall only be used for parking, access, and limited storage.
5. Service equipment (e.g., furnaces, water heaters, washer/dryers, etc.) is not permitted below the base flood elevation.
6. All walls, floors, and ceiling materials located below the base flood elevation must be unfinished and constructed of materials resistant to flood damage.

C. Crawlspace. Crawlspace are a commonly used method of elevating buildings in Special Flood Hazard Areas (SFHAs) to or above the Base Flood Elevation (BFE), and are allowed subject to the following requirements:

1. The building is subject to the Flood-Resistant Construction provisions of the Oregon Residential Specialty Code.
2. They shall be designed by a professional engineer or architect licensed to practice in the State of Oregon to meet the standards contained in the most current Federal Emergency Management Agency's (FEMA) Technical Bulletin.
3. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

4. Flood vent openings shall be provided on at least two sides that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. The total area of the flood vent openings must be no less than 1 square inch for each square foot of enclosed area. The bottom of each flood vent opening can be no more than 1 foot above the lowest adjacent exterior grade. For guidance on flood openings, see FEMA Technical Bulletin 1-93, Openings in Foundation Walls.
5. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls (studs and sheathing), but also any, joists, insulation, or other materials that extend below the BFE. For more detailed guidance on flood-resistant materials see FEMA Technical Bulletin 2-93, Flood-Resistant Materials Requirements.
6. Utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters. For further guidance on the placement of building utility systems in crawlspaces, see FEMA 348, Protecting Building Utilities From Flood Damage. Flood-resistant materials and utilities, access, and ventilation openings in crawlspaces are further addressed in this bulletin.
7. The interior grade of a crawlspace below the BFE must not be more than 2 feet below the lowest adjacent exterior grade (LAG).
8. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4 feet at any point. This limitation will also prevent these crawlspaces from being converted into habitable spaces.
9. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. Possible options include natural drainage through porous, well-drained soils and drainage systems such as low-point drains perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity.
10. The velocity of floodwaters at the site should not exceed 5 feet per second for any crawlspace. For velocities in excess of 5 feet per second, other foundation types should be used.

11. For more detailed information refer to FEMA Technical Bulletin 11-01 or the most current edition.

12. The use of below grade crawlspaces to elevate the building to 1-ft. above the BFE may cause an increase in flood insurance premiums which, are beyond the control of the City.

(ORD. 1565)

D. A poured slab placed over fill can be used to elevate the lowest floor of a structure above the base flood elevation. However, when a building site is filled, it is still in the floodplain and no basements are permitted.

E. Placing a structure on piers, piles, and posts is allowed provided supporting members are designed to resist hydrostatic and hydrodynamic forces.

#### **27.090 NON-RESIDENTIAL CONSTRUCTION**

New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated to at least one foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

A. Be flood-proofed so that below the base flood level the structure is water tight with walls impermeable to the passage of water;

B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

C. Be certified by a professional civil engineer licensed to practice in the state of Oregon that the design and methods of construction shall prevent seepage, collapse or cracking of basement walls, prevent buckling of basement floors, prevent back-up of water from sewer lines, and have all openings located one foot above the base flood elevation. In addition, all protective features must operate automatically without human intervention.

D. Non-residential construction that is elevated, but not flood proofed (i.e. the foundation is not at least one foot above the 100-year flood elevation, shall also comply with the standards set forth in Section 27.080. (ORD 1522)

**27.100****SUBDIVISION PROPOSAL**

- A. All subdivision proposals shall be designed to minimize flood damage and not increase flood levels;
- B. Lowest floor of all structures must be at least one foot above the base flood elevation;
- C. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- D. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage and streets should drain rapidly; and,
- E. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for any land division proposal. (ORD 1522)

**27.110****MANUFACTURED HOMES**

- A. All manufactured homes must be anchored to prevent flotation, collapse or lateral movements, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
- B. All manufactured homes placed or substantially improved within zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot above the base flood elevation and is securely anchored to an adequately anchored foundation system.
- C. Recreational vehicles shall be on site for less than 180 consecutive days, or be fully licensed and ready for highway use, or be elevated to at least one foot above the base flood elevation and meet manufactured home standards.  
(ORD 1522)

**27.120****ALTERATION OF WATERCOURSES**

- A. The applicant shall meet the requirements of CDC Chapter 28, *Willamette River Greenway*, CDC Chapter 29, *Tualatin River Protection*, or CDC Chapter 30, *Water Quality Resource Area*, as applicable, in addition to CDC Chapter 27 requirements.
- B. A comparison by a professional civil engineer licensed to practice in the state of Oregon shall be made between the existing channel capacity and the proposed capacity and the changes assessed. The alteration or modification must maintain the carrying capacity of the watercourse and not increase the base flood elevation.
- C. The Planning Director shall notify adjacent communities and the state of Oregon Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- D. The Planning Director shall require that maintenance be provided within the altered relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- E. The Planning Director shall require that alterations of watercourses must allow fish passage and preserve fish habitat.
- F. The applicant shall submit a copy of a permit from the Oregon Division of State Lands and U.S. Army Corps of Engineers that allows the alteration, or states that it is exempt.

**27.130****VARIANCES**

CDC Section 27.130 applies in addition to the standards governing variance proposals found in CDC Chapter 75. The purpose of CDC Section 27.130 is to ensure that compliance with CDC Chapter 27 does not cause unreasonable hardship. To avoid such instances, the requirements of CDC Chapter 27 may be varied. Variances are also allowed when strict application of CDC Chapter 27 would deprive an owner of all economically viable use of land. The Planning Director may impose such conditions as are deemed necessary to limit any

adverse impacts that may result from granting relief. Flood Hazard applications that are submitted on or before the effective date of CDC Chapter 27, *Flood Management Area*, and deemed complete within 180 days of submittal, are exempt from the requirements of CDC Chapter 27, *Flood Management Area*. To vary from the requirements of CDC Chapter 27, the applicant must demonstrate the following:

- A. The variance does not increase danger to life and property due to flooding or erosion;
- B. The impact of the increase in flood hazard, which will result from the variance, will not prevent the City from meeting the requirements of Chapter 27. The applicant shall have a professional civil engineer licensed to practice in the state of Oregon document the expected height, velocity, and duration of flood waters, and estimate the rate of increase in sediment transport of the flood waters expected both downstream and upstream as a result of the variance;
- C. The variance will not increase the cost of providing and maintaining public services during and after flood conditions so as to unduly burden public agencies and taxpayers;
- D. The proposed use complies with the standards of the base zone.
- E. The proposed use shall not result in any increase of flood levels during the base flood ordinary high water mark discharge within a designated floodway. (ORD 1522)
- F. If the variance allows a structure to be built with a lowest floor elevation below the base flood elevation, the applicant has been given written notice that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation. (ORD 1522)

#### **27.140**

#### **ABROGATION AND GREATER RESTRICTIONS**

CDC Chapter 27 must be complied with in addition to any other applicable code provision, ordinance, statute, easement, covenant, or deed restriction. It is not intended to repeal any existing restriction. If any provision of this chapter and any other code provision, ordinance, easement, covenant, or deed restriction

conflict or overlay, the provision containing the more stringent restriction shall prevail. All development within the Willamette River Greenway must comply with CDC Chapter 28 and all development within the Tualatin River Protection zone must comply with CDC Chapter 29.

**27.150 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by CDC Chapter 27 is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. CDC Chapter 27 shall not create liability on the part of the City of West Linn, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

**27.160 MAP ADMINISTRATION**

The purpose of this section is to provide a process for amending the Flood Management Area map.

- A. Within 90 days of receiving information establishing a possible error in the existence or location of a flood management area, the Planning Director shall provide notice to interested parties of a public hearing at which the City Council will review the information as set forth in CDC Section 99.060.D.
- B. The City Council shall amend the Flood Management Area map if the information demonstrates that the boundaries of the flood management area have changed since adoption of the Flood Management Area map.
- C. Amendments to the Flood Management Area Map that would result in a reduction to the 100-year floodplain shown on the Flood Insurance Area Map shall not take effect until successful completion of the National Flood Insurance Program map amendment or map revision process. (ORD 1522)

**27.170****CONSISTENCY**

Where the provisions of CDC Chapter 27 are less restrictive or conflict with comparable provisions of the zoning ordinance, regional, state, or federal law, the provisions that are more restrictive shall govern. Where this ordinance imposes restrictions that are more stringent than regional, state and federal law, the provisions of this ordinance shall govern.

(AMENDED PER ORD. 1463; 10/00, ORD 1565 4/08)

p:/devrvw/cdc/27



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**28.000 WILLAMETTE AND TUALATIN RIVER PROTECTION**

**28.000 WILLAMETTE AND TUALATIN RIVER PROTECTION**

**28.010 PURPOSE**

The purposes of the Willamette and Tualatin River Protection Area are the following:

- A. Protect, conserve, enhance, and maintain the natural, scenic historical, economic, and recreational qualities of lands along the Willamette and Tualatin Rivers.
- B. Implement the policies of the West Linn Comprehensive Plan and the State of Oregon's Willamette River Greenway program.
- C. Establish standards and requirements for the existing and future use of lands within the Willamette and Tualatin River Protection Areas.
- D. Provide for the review of any intensification of use, change of use, or development within the Willamette and Tualatin River Protection Areas.
- E. Encourage local stewardship of the Willamette and Tualatin River Protection Areas.
- F. Protect, preserve and expand legal public use and access to and along the shoreline and river, while recognizing and preserving private property rights.
- G. Create incentives to direct development to areas where it is most appropriate.
- H. Protect and enhance riparian habitat for native flora, fish, and wildlife within the Willamette and Tualatin Rivers and along their banks

**28.020 DEFINITIONS**

- A. Anchor-secured docks. Docks that are held in place by cables that are then attached to the riverbed or shoreline by an anchoring system.
- B. Authorized area. The area within the preference right area, as determined by DSL, where the applicant may place their water dependent

structure (e.g. dock) is called the authorized area. (see preference rights definition and figures 28.1 and 28.2)

C. Boat House. Roofed structure to store and protect a boat. Boat houses may also include roofed open sided boat shelters.

D. Development. As used in this chapter includes any change of use or intensification of the use of land or water, to include construction of structures (such as houses, structures, docks and associated pilings or piers), significant grading, or removal or addition of vegetation and groundcover unless specifically exempted per CDC 28.040.

E. Dock. Dock/ Float means an individual secured and stationary or floating structure (other than a mooring buoy) used exclusively for mooring boats and for similar uses. Dock can also refer to water dependent uses generically unless otherwise indicated from the context.

F. DSL. Department of State Lands.

G. Gangway/Ramp. A variably sloped structure intended to provide pedestrian access from the shore to a dock.

H. Habitat Conservation Areas (HCAs). Metro classified sensitive riparian areas as Habitat Conservation Areas or HCAs because of a combination of factors including vegetation, wildlife and fisheries habitat potential, slopes, forested overstory, wetlands, streams etc. These areas have been mapped by Metro (see <http://www.metro-region.org/index.cfm/go/by.web/id=8385>.) and are to be avoided to the degree possible with development instead directed to the areas designated “*Not Affected by Recommendation*” or “*Allow Development*”.

Lands that are designated as an HCA only due to a forested overstory shall be exempted under 28.040 “Exemptions” since trees are already protected in the Municipal Code and CDC Chapters 85 and 55. Similar exemptions will apply to lands that exhibit no constraints.

I. Joint-use boat docks. These structures are designed for, and shall be used exclusively by, two or more riverfront property owners. Typically, two adjacent riverfront property owners share the joint dock. Owners of non-riverfront property may be co-applicants for a joint boat dock

J. Metro’s Habitat Protection Map. An extensive review of the scientific literature, mapping and field work helped Metro identify the location of fish and wildlife habitat: one for waterside, or riparian, habitat and one for drier upland wildlife habitat. In 2001, Metro mapped the specific landscape features associated with these criteria, such as the

location of trees, shrubs, wetlands, flood areas and steep slopes. Habitat areas were then ranked based on their relative health and importance for providing benefits to fish and wildlife. The resulting maps provide West Linn with the means to delineate areas that contain no constraints: “Not Affected by Recommendation” or “Allow Development” and where there are constraints (HCAs) ranging from low, medium to high. The maps are available at Metro’s website at <http://www.metro-region.org/index.cfm/go/by.web/id=8385>.

Metro’s Habitat Protection Map is incorporated by reference as part of this Chapter. Lands that are designated as an HCA only due to a forested overstory shall be exempted under 28.040 “Exemptions” since trees are already protected in the Municipal Code and CDC Chapters 85 and 55. Similar exemptions will apply to lands that exhibit no constraints.

K. Minor Modification. A change in the approved design that is equal to or less than a ten percent increase in the length, width or height of the facility. A change of location by under 20 feet laterally for any part of the structure, ramp, dock etc. also constitutes a minor modification.

L. Non-Conforming Docks. Docks that do not meet the criteria of Chapter 28.

M. ODFW Oregon Department of Fish and Wildlife.

N. Ordinary high water (OHW) mark. The line on the bank or shore to which the water ordinarily rises in season. Also known as OHWM.

O. Ordinary low water (OLW) mark. The line on the bank or shore to which the water ordinarily recedes in season. Also known as OLWM.

P. Pilings. Plastic, wood, steel, or composite poles that are driven into, or otherwise attached to, the river bed to hold a dock in place or to support a pier.

Q. Pre-existing Docks. Docks that are in existence prior to the date of adoption of this code.

R. Preference Rights. The preference rights area represents the water surface that is allocated to each riverfront property owner by Department of State Lands (DSL). Starting with the center thread of the river, DSL extends lines at right angles from that thread towards the OHW mark of the respective properties along the shoreline. (Because the thread of the river twists and turns, the line extending to shore can vary also in its

angle.) The area within the preference right area that the applicant may place their water dependant structure (e.g. dock) is called the authorized area.

(see authorized area definition and figures 28.1 and 28.2)

S. Private railed launch facilities. These are rail lines that usually extend from an on-shore boat storage facility above OHW, across the beach and into the water below OLW for the purpose of launching a boat.

T. Protection Area. Collective term to describe areas within the Willamette River Greenway boundary and/or Tualatin River Protection Area boundary.

Figure 28.1

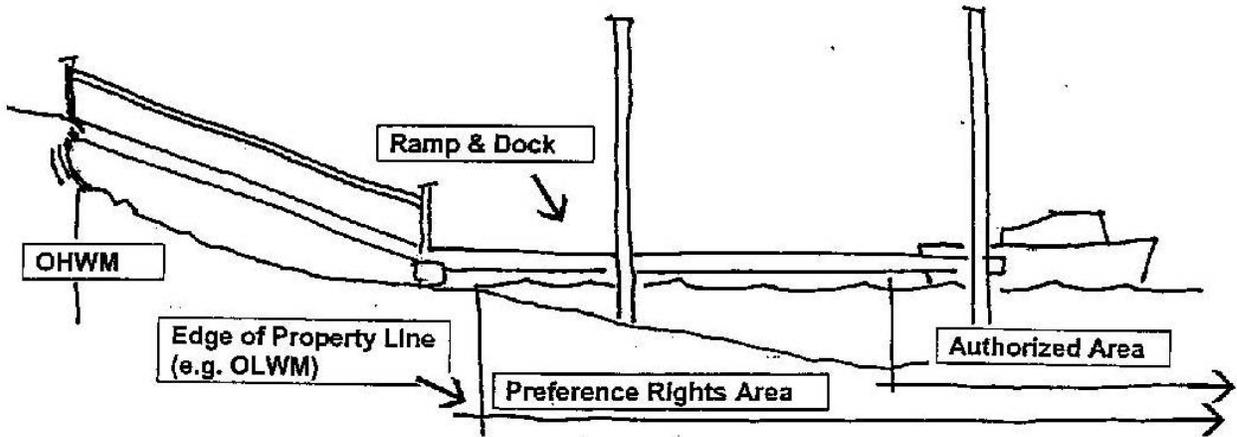
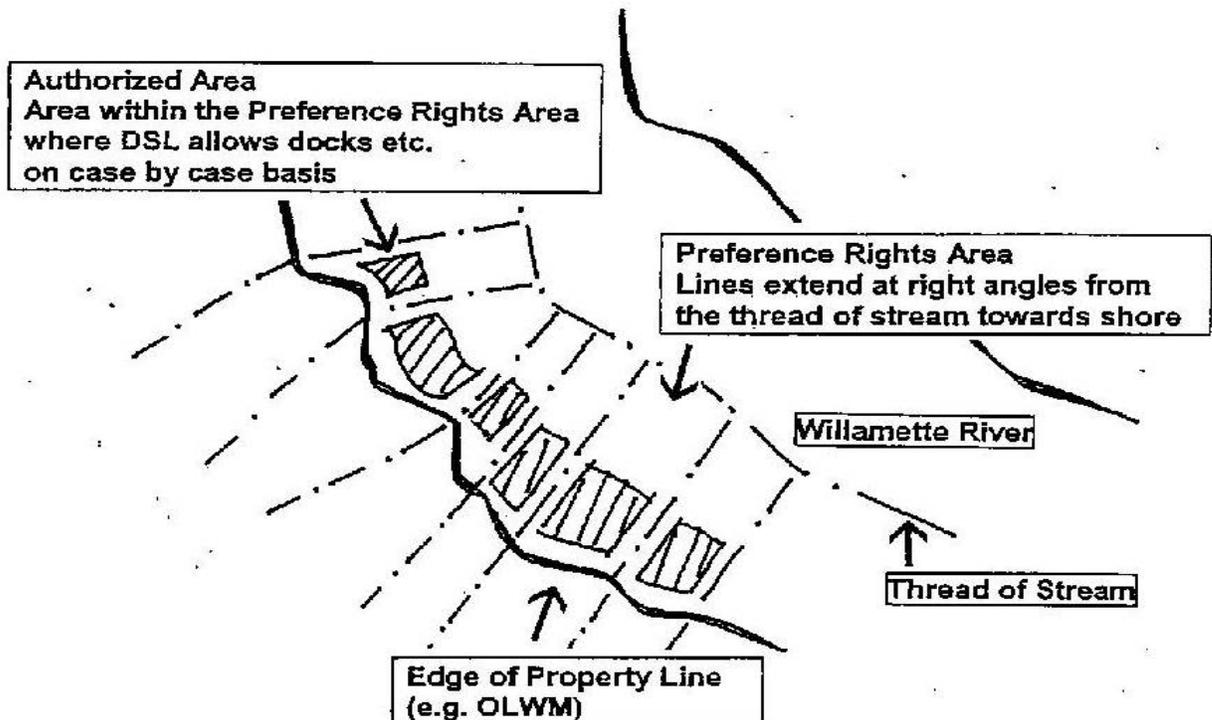


Figure 28.2



U. Riparian Areas. Land and semi-submerged lands between the OHW and OLW.

V. Riparian Vegetation. Plants native to the riparian areas.

W. Significant modification. A change in the approved design that is more than a ten percent increase in the length, width or height of the facility. A change of location by 20 feet or more laterally for any part of the ramp or dock also constitutes a significant modification.

X. Top of Bank. The point at the top of the river embankment, above the OHW mark, where the slope of the embankment transitions from at least a 10-15 percent to a slope of 0-5 percent.

Y. Walkway/Boardwalk. A floating or non-floating platform that either provides pedestrian access along a shoreline or within a riparian area, it may also act as a bridge between two bodies of land.

Z. Water Dependent Uses. Any use that requires access to, or use of, the rivers.

AA. Water Resource Area (WRA). Any area that consists of a wetland identified in the West Linn Local Wetlands Inventory and the required transition and setback area around the wetland pursuant to CDC Chapter 32, or any major or minor open channel drainageway identified by the most recently adopted West Linn Surface Water Management Plan. The WRA shall also include the required transition and setback area around the major or minor open channel pursuant to CDC Chapter 32, except for small man-made open roadside drainage swales in residential areas, or any riparian corridor. It shall not include lands adjacent to the Willamette or Tualatin Rivers which shall be covered by this chapter.

BB. Willamette River Greenway Area. The area designated by the City of West Linn Comprehensive Plan as within the Willamette River Greenway and thus subject to the provisions of Goal 15 (Willamette Greenway) of the Oregon Statewide Planning Program.

## **28.030 APPLICABILITY**

A. The Willamette and Tualatin River Protection Area is an overlay zone. The zone boundaries are identified on the city's zoning map, and include

1. All land within the City of West Linn's Willamette River

Greenway Area.

2. All land within 200 feet of the ordinary low water mark of the Tualatin River, and all land within the 100-year floodplain of the Tualatin River.
3. In addition to the Willamette Greenway and Tualatin River Protection Area boundaries, this chapter also relies on Metro's Habitat Protection Map to delineate where development should or should not occur. Specifically, the intent is to keep out of, or minimize disturbance of, the Habitat Conservation Areas (HCA's). Therefore, if all, or any part, of a lot is in the Willamette Greenway and Tualatin River Protection Area boundaries, and there are HCA's on the lot a Willamette and Tualatin River Protection Area permit shall be required unless the development proposal is exempt per CDC 28.040.

B. At the confluence of a stream or creek with either the Tualatin or Willamette Rivers, the standards of this chapter shall apply only to those portions of the lot fronting the river. Meanwhile, development in those portions of the property facing or adjacent to the stream or creek shall meet the transition, setbacks and other provisions of the CDC Chapter 32: WRA.

C. All uses permitted under the provisions of the underlying base zone and within the Willamette and Tualatin River Protection Area zone are allowed in the manner prescribed by the base zone subject to applying for and obtaining a permit issued under the provisions of this chapter unless specifically exempted per CDC 28.040.

D. The construction of a structure in the HCA or the expansion of a structure into the HCA when the new intrusion is closer to the protected water feature than the pre-existing structure.

#### **28.040 EXEMPTIONS/USES PERMITTED OUTRIGHT**

The following development activities do not require a permit under the provisions of this chapter. (Other permits may still be required.)

A. Customary dredging and channel maintenance conducted under permit from the state of Oregon.

B. Seasonal increases in gravel operations under permit from the state of Oregon and/or the United States Army Corps of Engineers.

- C. Scenic easements and their maintenance.
- D. Replacement-in-kind or minor modification by public utilities for pump stations, public bathrooms, utilities, existing utility lines, wires, fixtures, equipment, circuits, appliances, and conductors and similar facilities.
- E. Flood emergency procedures and the maintenance and repair of existing flood control facilities.
- F. Signs, markers, announcements, etc. placed by a public agency to serve the public.
- G. Maintenance or repair of existing residential houses, structures, docks, provided the work does not involve expansion of building square footage or building footprint.
- H. Storage of equipment or material associated with uses permitted, providing that the storage complies with applicable provisions of this chapter.
- I. A change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated.
- J. Landscaping with native or existing vegetative materials only (excluding nuisance or prohibited plants on the Metro Native Plant List).
- K. Routine repair and maintenance of legally established structures, utilities, roads, and manmade water control facilities such as constructed ponds or lakes, wastewater facilities, and stormwater treatment facilities that do not alter the location or footprint of the structure, utility, or road.
- L. Reasonable emergency procedures necessary for the safety or protection of property.
- M. Minor modifications, as defined in this chapter and deemed eligible by the Planning Director.
- N. The action of any City officer or employee of any public utility to remove or alleviate from immediate danger to life or property, to restore existing utility service or to reopen a public thoroughfare to traffic provided that after the emergency has passed, adverse impacts are

mitigated in accordance with CDC 32.070.

O. Routine maintenance activities such as removing dead or dying vegetation that constitutes a hazard to life or property, pollutants, trash, eroded material, etc.

P. Wetland, riparian and upland enhancement or restoration projects done with approval of city staff and regulatory agency personnel (e.g. ODFW, DSL).

Q. Temporary and minor clearing not to exceed 200 square feet for the purpose of site investigations and pits for preparing soil profiles, provided that such areas are restored to their original condition when the investigation is complete. For wetlands, such clearing shall not occur within the actual wetland itself, but only within the adjacent wetland transition area. While such temporary and minor clearing is exempt from the provisions of this chapter, it is subject to all other city codes, including provisions for erosion control and tree removal.

R. Removal of plants identified as nuisance or prohibited plants on the Metro Native Plant List and the planting or propagation of plants identified as native plants on the Metro Native Plant List. Handheld tools must be used to remove nuisance or prohibited plants, and after such removal all open soil areas greater than 25 square feet must be replanted.

S. In cases where the required development standards of this chapter are applied and met with no encroachment into HCAs, and also meets (T) and (U) below, where applicable, then no permit under the provisions of this chapter will be required. For example, if the proposed development or action will be located in the “Not Affected by Recommendation” or “Allow Development” area and keeps out of the Habitat Conservation Areas a Willamette or Tualatin River Protection Area permit shall not be required. Floodplain Management Area or other permits may still be required.

T. The construction, remodeling or additions of home and accessory structures that take place completely within the “Not Affected by Recommendation” or “Allow Development” of Metro’s Habitat Conservation Maps shall be exempt from a Willamette or Tualatin River Protection Area permit. Where the “Not Affected by Recommendation” or “Allow Development” area goes to the edge of a clearly defined top of bank, the applicant’s home and accessory structures shall be set back at least 15 feet from top of bank. At grade patios and deck areas within 30 inches of natural grade may extend to within five feet from top of bank. No overhang or cantilevering of structures permitted over HCA or over

setback area. If these terms are met then no permit will be required under this chapter.

U. Maintenance, alteration, expansion, repair and replacement of existing structures are exempt, provided impermeable surfaces do not exceed 5,000 square feet and that it complies with the provisions of CDC Chapters 27 and 28. The following standards shall also apply:

(1) Rebuilding of existing residential and non-residential structures within the same foundation lines as the original structure(s) including, but not limited to, those damaged or destroyed by fire or other natural hazards; or,

(2) The alteration, expansion, repair and replacement of a house or structure per the standards of section 28.110(E) not to exceed 5,000 square feet of impermeable surface per that section; or,

(3) The alteration, expansion, repair and replacement of a house or structure vertically where the applicant is adding additional floors or expanding above the footprint of the existing structure regardless of whether the structure's footprint is in an HCA or not.

V. Maintenance of existing gardens, pastures, lawns, and landscape perimeters, irrigation systems within existing gardens, lawns, and landscape perimeters. New irrigation systems are not permitted where none existed before. The City encourages restoration of areas within the drainageway transition to native vegetation.

W. Low impact public or private outdoor recreation facilities including, but not limited to, multi-use water permeable paths and trails to a maximum width of four feet, picnic areas, interpretive displays, benches. Gazebos or similar structures must be out of the HCA areas to be exempt. No more than 500 square feet of new lot coverage allowed under this provision. Maintenance and repair of public paths are exempt.

X. Interior remodeling.

Y. Installation of new and/or replacement water permeable driveways, paths and patios and two track driveways outside of HCAs. Surface area cannot exceed amount allowed by lot coverage standards of underlying zone.

Z. Accessory structures under 15 feet tall and 500 square feet located on the opposite side of the house or principal structure from the resource area requires only a building permit.

AA. Lands that are designated as an HCA only due to a forested canopy shall be exempted since trees are already protected in the Municipal Code and CDC Chapters 85 and 55. Development of lands that are designated as HCA due to other variables such as wetlands, flood areas and steep slopes shall still be regulated by the provisions of this chapter and not exempted.

BB. Construction of a public pathway by dedication or easement accepted by the City.

## **28.050 PROHIBITED USES**

A. The following are prohibited:

1. Residential floating structures, also known as floating homes or houseboats.
2. Permanent ski jumps.
3. More than one dock with or without a boathouse per river front lot of record, except city owned tax lots 100, 200, 300, 400, and 500 of Assessor's Map 21 East 24.
4. The location of any dock under any water condition that prevents what would otherwise be historic, safe, uninterrupted water passage.
5. Any new lawn area or garden area consisting primarily of non-native vegetation within HCA lands. A lawn area in the "Allowed Development" area is permitted.
6. Planting of any species identified as nuisance or prohibited plants on the Metro Native Plant List.
7. Non permitted storage of hazardous materials as defined by the Oregon Department of Environmental Quality and dumping of any materials of any kind.
8. Excessive trimming or removal of existing native vegetation within the HCA unless it is to reestablish native vegetation in place of non-native or invasive vegetation.

## **28.060 ADMINISTRATION AND APPROVAL PROCESS**

An application for a Protection Area Permit shall be processed pursuant to the provisions of CDC Chapter 99, Procedures for Decision-Making: Quasi-Judicial.

## **28.070 PLANNING DIRECTOR VERIFICATION OF METRO HABITAT PROTECTION MAP BOUNDARIES**

- A. 1. Metro's Habitat Protection map is the basis for identifying lands "Not Affected by Recommendations" or "Allow Development" areas and the HCA areas. A copy of the map is on file at the city and is adopted by reference as the mapping tool to be used with this chapter.

It is inevitable, given the large area that Metro's Habitat Protection map covers, that there may be some errors. In cases where, for example, three properties share the same contours and the same natural features but the map shows the middle lot with an HCA designation on it, it is reasonable to question the accuracy of that HCA classification. Using tree overstory as the sole basis for HCA designation will also allow a change in designation since trees are already protected in the Municipal Code and CDC Chapters 55 and 85.

2. The Planning Director shall verify the appropriate HCA or non-HCA classification by site visits or consultations with Metro or by other means. Determination is based on whether the Metro criteria are met or whether the Metro classification is based solely on tree overstory in which case a re-classification is appropriate. In cases where the determination is that the map is incorrect, the Planning Director will make a written finding of this as well as the site conditions that led to that conclusion.

3. Class C public notice, per CDC Chapter 99, shall be required prior to issuance of the reclassification decision if it involves re-classification of the HCA boundary to allow the construction of, or addition to, a house.

4. This determination and findings shall become part of the City record and part of the record for any associated land use application. The Planning Director shall also include in the record the revised map boundary. The Planning Director's determination and map revisions shall also be sent to Metro so that their map may be corrected as necessary.

5. The Planning Director determination is appealable to City Council per CDC Chapter 99.

## **28.080 TIME LIMIT ON APPROVAL**

- A. Approval of a protection area permit shall be void if
  - 1. Substantial work (e.g. piling installation etc) is not completed within three years of the approval date.
  - 2. The site plan on which the approval is based is significantly modified or where actual construction deviates from the approved plans to the extent that it constitutes more than a minor modification as defined by this chapter. Any such change in the plan or conditions of approval shall require a new application and hearing pursuant to the provisions set forth in this chapter and Chapter 99.

## **28.090 SUBMITTAL REQUIREMENTS: THE APPLICATION**

- A. An application for a protection area permit shall be initiated by the property owner or the owner's authorized agent. Evidence shall be provided to demonstrate that the applicant has the legal right to use the land above the OLW. The property owner's signature is required on the application form.
- B. A prerequisite to the filing of an application is a pre-application conference at which time the Planning Director shall explain the provisions of this chapter and provide appropriate forms as set forth in Section 99.030(B).
- C. An application for a protection area permit shall include the completed application and:
  - 1. Narrative which addresses the approval criteria of Section 28.110.
  - 2. A site plan, with HCA boundaries shown and by low, moderate, high type shown (28.120).
  - 3. A grading plan if applicable, (28.130).
  - 4. Architectural drawings if applicable, (28.140).
  - 5. A landscape plan if applicable, (28.150).

6. A mitigation plan, if applicable (28.160).

One original application form must be submitted. Three copies at the original scale and three copies reduced to 11 X 17 inches or smaller of all drawing and plans must be submitted. Three copies of all other items, including the narrative, must be submitted. The applicant shall also submit a disk, in electronic readable format, of the complete application. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Director.

- D. The applicant shall pay the requisite fees.
- E. The applicant shall be responsible for, and shall apply for, all applicable State and/or Federal permits.
- F. The applicant shall include a map, approved or acknowledged by DSL, of the preference rights and authorized area if a water surface structure is proposed.

#### **28.100 ADDITIONAL SUBMITTAL INFORMATION REQUIRED, WAIVER OF SUBMITTAL REQUIREMENTS**

- A. The Planning Director may require additional information as a part of the application subject to the provisions of Section 99.035(A).
- B. The Planning Director may waive any submittal requirement for the application subject to the provisions of Section 99.035(B) and (C).

#### **28.110 APPROVAL CRITERIA**

No application for development on property within the protection area shall be approved unless the decision making authority finds that the following standards have been met or can be met by conditions of approval. The development shall comply with the following criteria as applicable:

- A. Development: All Sites
  1. Sites shall first be reviewed using Metro's Habitat Protection Map to determine if the site is buildable or what portion of the site is buildable. HCAs shall be verified by the Planning Director per section 28.070 and site visit. Also, "tree canopy only" HCAs shall not constitute a development limitation and may be exempted per section 28.070A)(1). The Municipal

Code protection for trees and CDC Chapter 55 and 85 tree protection shall still apply.

2. Development in the “Not affected by recommendation” or “Allow Development” areas as designated in the Metro Map for HCAs shall be the preferred choice.

3. If the subject property contains no lands designated “Not affected by recommendation” or “Allow Development” and development within HCA land is the only option it shall be directed towards the low HCA areas first then medium HCA areas and then to High HCA as the last choice. The goal is to, at best, avoid or, at least, minimize disturbance of the HCAs. (Water dependant uses are exempt from this provision.)

4. All development, including exempted activities of CDC 28.040, shall have approved erosion control measures per CDC Chapter 31 in place prior to site disturbance and be subject to the requirements of CDC 32.070 and 32.080 as deemed applicable by the Planning Director.

B. Single-family or attached residential.

1. Development of single-family homes or attached housing shall be permitted on the following Metro Habitat Protection Map land classifications and in the following order of preference with “a” being the most appropriate and “d” being the least appropriate:

- a. “Not affected by recommendation” or “Allow Development”
- b. Low HCA
- c. Moderate HCA
- d. High HCA

(i) Development of land classifications b, c and d shall not be permitted if at least a 5,000 square foot area of buildable land (“a”) exists for home construction, and associated impermeable surfaces (driveways, patios etc.).

(ii) If 5,000 square feet of buildable land (“a”) is not available for home construction, and associated impermeable surfaces (driveways, patios etc.) then combinations of land classifications (a, b and c) totaling a maximum of 5,000 square feet shall be used to avoid intrusion into high HCA lands. Development shall emphasize area “a” prior to extending construction into area “b” then “c” lands.

(iii) The underlying zone FAR shall also apply as well as allowable lot coverage.

(iv) Development may occur on legal lots and non-conforming lots of record located completely within the HCA areas or that have the majority

of the lot in the HCA to the extent that the applicant has less than 5,000 square feet of non-HCA land.

Development shall disturb the minimum necessary area to allow the proposed use or activity, shall direct development to any available non-HCA lands and in any situation shall create no more than 5,000 square feet of impervious surface. (Driveways, paths, patios etc that are constructed of approved water permeable materials will not count in calculating the 5,000 square foot lot coverage.) The underlying zone FAR and allowable lot coverage shall also apply and may result in less than 5,000 square feet of lot coverage.

When only HCA land is available then the structure shall be placed as far away from the water resource area or river as possible. To facilitate this, the front setback of the structure or that side which is furthest away from the water resource or river may be reduced to a five foot setback from the front property line without a variance. Any attached garage must provide a 20 foot by 20 foot parking pad or driveway so as to provide off street parking exclusive of the garage. The setbacks of 28.110(C) shall still apply.

(iv) Driveways, paths, patios etc that are constructed of approved water permeable materials will be exempt from the lot coverage calculations of i-iv above and the underlying zone.

(v) Table showing development allowed by land classification:

	Development Allowed
Non-HCA (“a”)	Yes
Low-Medium HCA (“b” & “c”)	Yes if less than 5,000 sq. ft. of non-HCA land available. Avoid “d”.
High HCA (“d”)	Yes but only if less than 5,000 sq. ft. of a, b and c land available.
Non-Conforming Structures (structures on HCA land)	Yes: vertically, laterally and/or away from river. Avoid “d” where possible.

(The underlying zone FAR and allowable lot coverage shall also apply.)

C. Setbacks from Top of Bank

1. Development of single family homes or attached housing on lands classified as “Not affected by recommendation” or “Allow Development” shall require a structural setback of 15 feet from any top of bank that represents the edge of the land classified as “Allow Development”.

2. At grade water permeable patios or decks within 30 inches of grade may encroach into that setback but must keep five feet from top of bank and cannot cantilever over the top of bank or into the five foot setback area.

3. For properties that lack a distinct top of bank the applicant shall identify the boundary of the area designated as “allowed development” or “not affected by recommendation” which is closest to the river. A structural setback of 15 feet is required from that boundary line. That 15 foot measurement extends from the boundary line away from the river. At grade water permeable patios or decks within 30 inches of grade may encroach into that setback 10 feet but must keep five feet from the boundary and cannot cantilever into the five foot setback area. For vacant lots of record that comprise no lands with “allowed development” or “not affected by recommendation” designation or insufficient lands with those designations so that the above setbacks cannot be met, the house shall be set back as far from river as possible to accommodate house as part of the allowed 5,000 square feet of impermeable surfaces.

D. Development of Lands Designated for Industrial, Commercial, Office, Public and other Non-Residential uses.

1. Development of lands designated for industrial, multi-family, mixed use, commercial, office, public and other non-single family residential uses shall be permitted on the following land classifications and in the following order of preference with “a” being the most appropriate for development and “d” being the least appropriate:

- a. “Not affected by recommendation” or “Allow Development”
- b. Low HCA
- c. Moderate HCA
- d. High HCA

2. Developing HCA land

a. Where non-HCA or areas designated as “Not affected by recommendation” or “Allow Development” are lacking or are in such limited supply as to render uses allowed by the underlying zone (e.g. general industrial) functionally impractical, the HCA may be utilized and built upon but shall emphasize “b” and “c” classifications.

b. Where it is proposed that a “d” or high HCA classification be used, the property owner must demonstrate that the proposed use is clearly a water dependent use. Proximity to the river for the purpose of views is not valid grounds. However, public interpretive facilities of historic facilities such as the government locks will be permitted as well as wildlife interpretive facilities and ADA accessible platforms.

#### E. Hardship Provisions and Non-Conforming Structures

1. For the purpose of this chapter, non-conforming structures are existing structures whose building footprint is completely or partially on HCA lands. Any additions, alterations, replacement, or rehabilitation of existing non-conforming non-water-related structures (including decks), roadways, driveways, accessory uses and accessory structures shall avoid encroachment upon the HCAs, especially high HCAs, except that:

a. A 10 foot lateral extension of an existing building footprint is allowed if the lateral extension does not encroach any further into the HCA or closer to the river or water resource area than the portion of the existing footprint immediately adjacent.

b. An addition to the existing structure on the side of the structure opposite to the river or water resource area shall be allowed. There will be no square footage limitation in this direction except as described in item “c” below.

c. The same allowance for the use of, and construction of, 5,000 square feet of total impervious surface for sites in HCA’s per section 28.110(B) (ii-iv) shall apply to lots in this section.

d. Vertical additions are permitted including the construction of additional floors.

e. The provisions of CDC Chapter 66: Non Conforming Structures-shall not apply.

f. Access and Property Rights

1. Private lands within the protection area shall be recognized and respected.

2. Where a legal public access to the river or elsewhere in the protection area exists, that legal public right shall be recognized and respected.

3. To construct a water dependent structure such as a dock, ramp, or gangway shall require that all pre-existing legal public access or similar legal rights in the protection area be recognized and respected. Where pre-existing legal public access, such as below the OLV is to be obstructed by, for example, a ramp, the applicant shall provide a reasonable alternate route around, over or under the obstruction. The alternate route shall be as direct as possible. The proposed route, to include appropriate height clearances under ramps/docks, specifications for safe passage over or around ramps and docks, shall be reviewed and approved by the Planning Director for adequacy.

4. Any public or private water dependent use or facility shall be within established DSL authorized areas.

5. Legal access to, and along, the riverfront in single family residential zoned areas shall be encouraged and pursued especially when there are reasonable expectations that a continuous trail system can be facilitated. The City recognizes the potential need for compensation where nexus and proportionality tests are not met. Fee simple ownership by the City shall be preferred. The trail should be dimensioned and designed appropriate to the terrain it traverses and the user group(s) it can reasonably expect to attract. Where there is sufficient space such as at a riverfront mixed use or multi-family development the desired path way width shall be at least 20 feet and constructed of all weather material. The City shall be responsible for signing the trail and delineating the boundary between private and public lands or access easements.

G. Incentives to Encourage Access in Industrial, Multi-family, Mixed use, Commercial, Office, Public and Non Single Family Residential Zoned Areas

1. For all industrial, multi-family, mixed use, commercial, office, public and other non-single family residential zones, this section encourages the dedication or establishment of access easements to allow legal public access to, and along, the river. Support for access may be found in the Parks Master Plan, a neighborhood plan or any applicable

adopted sub-area plans. The emphasis will be upon locating paths where there is a reasonable expectation that the path can be extended to adjacent properties to form a connective trail system in the future, and/or where the trail will provide opportunities for appreciation of, and access to, the river.

2. Height or density incentives may be available to developers who provide public access. Specifically, commercial, industrial, multi-family, mixed use, and public projects may be constructed to a height of 60 feet. No variance is required for the 60 foot height allowance regardless of the underlying zone height limitations; however, the following conditions must be met:

a. Provide a minimum 20 foot wide all weather public access path along the project's entire river frontage (reduced dimensions would only be permitted in response to physical site constraints such as rock outcroppings, significant trees etc.), and,

b. Provide a minimum 10 foot wide all weather public access path from an existing public right of way to that riverfront path or connect the riverfront path to an existing riverfront path on an adjoining property that accesses a public right of way.

c. Fencing may be required near steep dropoffs or grade changes.

#### H. Partitions, Subdivisions and Incentives

1. When partitioning a property into parcels, an applicant shall verify the boundaries of the HCA on the property.

2. Applicant shall partition or subdivide the site so that all parcels have a buildable site or envelope available for home construction located on non-HCA land or areas designated "Not affected by recommendation" or "Allow Development" per the Metro HCA map.

3. Development of HCA dominated lands shall be undertaken as a last resort. A Planned Unit Development (PUD) of CDC Chapter 24 may be required.

4. Incentives are available to encourage provision of public access to, and/or along, the river. By these means, Planned Unit Developments shall be able to satisfy the shared outdoor recreation area requirements of CDC

55.100(F). Specifically, for every square foot of riverfront path, the applicant will receive credit for two square feet in calculating the required shared outdoor recreation area square footage. Applicants shall also be eligible for a density bonus under CDC 24.150(B). To be eligible to receive either of these incentives, applicants shall:

a. Provide a minimum 20 foot wide all weather public access path along the project's entire river frontage; (reduced dimensions would only be permitted in response to physical site constraints such as rock outcroppings, significant trees etc.), and,

b. Provide a minimum 10 foot wide all weather public access path from an existing public right of way to that riverfront path or connect the riverfront path to an existing riverfront path on an adjoining property that accesses a public right of way.

c. Fencing may be required near steep dropoffs or grade changes.

#### I. Docks and other Water Dependent Structures

1. Once the preference rights area is established by DSL, the property owner identifies where the water dependent use will be located within the authorized portion of the preference rights area. The water dependent use should be centered or in the middle of the preference rights/authorized area or meet the side yard setbacks of the underlying zone.

Private and public non-commercial docks are permitted where dredging is required so long as all applicable Federal and State permits are obtained. Dredging is encouraged if deposits silt up under an existing dock. Dredging is seen as preferable to the construction of longer docks/ramps.

2. Both joint and single use docks shall not extend into the water any further than necessary to provide four feet between the ships keel or fixed propeller/rudder and the bottom of the water at any time during the waters lowest point.

3. In no case except as provided in Section 28.110 shall the ramp and dock extend more than 100 feet from OLW towards the center of the river or slough. In the case of L shaped docks, the 100 feet shall be measured from the OLW to the furthest part of the dock closest to the center of the river.

4. Docks on sloughs and similar channels shall not extend more than 30% of the distance between two land masses at OHW such as between

the main land and an island or peninsula, measured in a lineal manner at right angle to the dominant shoreline. In no way shall a dock impede existing public usage or block navigation of a channel.

5. Boat storage associated with a rail launch facility shall be located above the OHW, either vertically raised above the ordinary high water line or set back behind the OHW. Such boat storage structure will be natural wood colors or similar earth tones. Private railed launch facilities are permitted for individual boat owners. The onshore setback of the storage structure is equal distance on both sides as extended perpendicular to the thread of the stream, or 7.5 feet whichever is greater setback.

6. The width of each deck section shall be no more than 12 feet wide.

7. For both single user and joint user docks, pilings shall not exceed a maximum height of eight feet above the 100-year flood elevation.

8. A single user non-commercial dock shall not exceed 400 square feet in deck area. The boat slip is not included in the calculation of this square footage limitation.

9. Private non-commercial boathouses are allowed but only if they are within 50 feet of OLW and/or in locations sufficiently screened from view so that they do not have a significant visual impact on views from adjacent and nearby homes. Building and roof colors shall be brown, gray, beige, natural or similar earth tones. Noncommercial boathouses shall not exceed 12 feet in height measured from the boathouse deck level to the roof peak. The size of the boathouse shall be sized to accommodate one boat only and shall not exceed a footprint greater than 500 square feet. Boatlifts are permitted within the boathouse. The above provisions also apply to open walled boat shelters with or without boatlifts.

#### J. Joint Docks

1. Joint use boat docks may be permitted by the reviewing authority where the applicants are riverfront property owners, ideally owners of adjacent lots of record.

2. Co-owners of the joint dock use shall be prohibited from having their own non-joint dock.

3. A joint use agreement shall be prepared which will be included in the application for review by the reviewing authority and subsequently recorded. A copy of the recorded document with County Recorder's stamp shall be submitted to the city.

4. A condition of approval for any joint use permit shall be that the dock must be used to serve the same lots of record for which the dock permit was issued. Joint use cannot be transferred to, or used by, any party other than the original applicants or the future owners of those properties.

5. Joint docks may go on the common property line between the two landowners who are sharing the dock. Unless agreed to by the adjoining owner, joint docks not being shared with the adjacent property owner must be at least 15 feet from the preference rights area side lines or centered in the middle of the preference rights area.

K. Non-Conforming Docks and other Water related structures.

Pre-existing non-conforming structures including docks, ramps, boathouses etc. as defined in this chapter may remain in place. Replacement in kind (e.g. replacement of decking and other materials) will be allowed provided the replacement meets the standards of this chapter. However, any non-conforming structure that is damaged and destroyed or otherwise to be replaced to the extent that the rebuilding or replacing (including replacement in kind) would exceed 50 percent of the current replacement cost of the entire structure, the owner shall be required to meet all the standards of this chapter.

L. Roads, Driveways, Utilities, or Passive Use Recreation Facilities

Roads, driveways, utilities, public paths, or passive use recreation facilities may be built in those portions of HCAs that include wetlands, riparian areas, and water resource areas when no other practical alternative exists but shall use water permeable materials unless City Engineering standards do not allow that. Construction to the minimum dimensional standards for roads is required. Full mitigation and revegetation is required, with the applicant to submit a mitigation plan pursuant to CDC Section 32.070 and a revegetation plan pursuant to CDC Section 32.080. The maximum disturbance width for utility corridors is as follows:

1. For utility facility connections to utility facilities, no greater than 10 feet wide.
2. For upgrade of existing utility facilities, no greater than 15 feet wide.
3. For new underground utility facilities, no greater than 25 feet wide, and disturbance of no more than 200 linear feet of Water Quality Resource Area, or 20% of the total linear feet of Water Quality Resource Area, whichever is greater.

M. Structures

All buildings and structures in HCA's and riparian areas, including all exterior mechanical equipment should be screened, colored, or surfaced so as to blend with the riparian environment. Surfaces shall be non-polished/reflective or at least expected to lose their luster within a year. In addition to the specific standards and criteria applicable to water dependent uses (docks), all other provisions of Chapter 28 shall apply to water dependent uses, and any structure shall be no larger than necessary to accommodate the use.

N. Water Permeable Materials for Hardscapes

The use of water permeable materials for parking lots, driveways, patios, paths as well as flow through planters, box filters, bioswales and drought tolerant plants are strongly encouraged in all "a-b" land classifications and shall be required in all "c-d" land classifications. The only exception in the "c-d" classification would be where it is demonstrated that water permeable driveways/hardscapes could not structurally support the axle weight of vehicles or equipment/storage load using those areas. Flow through planters, box filters, bioswales, drought tolerant plants and other measures of treating and/or detaining runoff would still be required in these areas.

O. Signs and graphics

No sign or graphic display inconsistent with the purposes of the Protection Area shall have a display surface oriented toward or visible from the Willamette or Tualatin River. A limited number of signs may be allowed to direct public access along legal routes in the protection area.

P. Lighting

Lighting shall not be focused or oriented onto the surface of the river except as required by the Coast Guard. Lighting elsewhere in the protection area shall be the minimum necessary and shall not create off site glare or be omni directional. Screens and covers will be required.

Q. Parking

Parking and unenclosed storage areas located within or adjacent to the Protection Area boundary shall be screened from the river in accordance with Chapter 46, Off Street Parking. The use of water permeable material to construct the parking lot is either encouraged or required depending on HCA classification per section 28.110(D)(4).

R. Views

Significant views of the Willamette and Tualatin Rivers shall be protected as much as possible as seen from the following public viewpoints: Mary S. Young Park, Willamette Park, Cedar Oak Park, Burnside Park, Maddox Park, Cedar Island, the Oregon City Bridge, Willamette Park, and Fields Bridge Park.

Where options exist in the placement of ramps and docks, the applicant shall select the least visually intrusive location as seen from a public viewpoint. However if no options exist, then the ramp, pilings and dock shall be allowed at the originally proposed location.

S. Aggregate Deposits

Extraction of aggregate deposits or dredging shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise and safety, and to promote necessary reclamation.

T. Changing the Landscape/Grading

1. Existing predominant topographical features of the bank line and escarpment shall be preserved and maintained except for disturbance necessary for the construction or establishment of a water related or water dependent use. Measures necessary to reduce potential bank and escarpment erosion, landslides, or flood hazard conditions shall also be taken.

Any construction to stabilize or protect the bank with rip rap, gabions etc. shall only be allowed where there is clear evidence of erosion or similar hazard and shall be the minimum needed to stop that erosion or to avoid a specific and identifiable hazard. A geotechnical engineer's stamped report shall accompany the application with evidence to support the proposal.

2. The applicant shall establish to the satisfaction of the approval authority that steps have been taken to minimize the impact of the proposal on the riparian environment (areas between the top of the bank and the low water mark of the river including lower terrace, beach and river edge)

3. The applicant shall demonstrate that stabilization measures shall not cause subsequent erosion or deposits on upstream or downstream properties.

4. Prior to any grading or development, of that portion of the HCA that includes wetlands, creeks, riparian areas and water resource area shall be protected with an anchored chain link fence (or approved equivalent) at its perimeter and shall remain undisturbed except as specifically allowed by an approved Willamette and Tualatin River Protection and/or water resource area (WRA) permit. Such fencing shall be maintained until construction is complete. That portion of the HCA that includes wetlands, creeks riparian areas and water resource area shall be identified with City-approved permanent markers at all boundary direction changes and at 30- to 50-foot intervals that clearly delineate the extent of the protected area.

5. Full erosion control measures shall be in place and approved by the City Engineer prior to any grading, development or site clearing.

U. Protect Riparian and Adjacent Vegetation

Vegetative ground cover and trees upon the site shall be preserved, conserved, and maintained according to the following provisions:

1. Riparian vegetation below OHW removed during development shall be replaced with indigenous vegetation, which shall be compatible with and enhance the riparian environment and approved by the approval authority as part of the application.

2. Vegetative improvements to areas within the protection area may be required if the site is found to be in an unhealthy or disturbed state by the City Arborist or his designated expert. "Unhealthy or disturbed" includes those sites that have a combination of native trees, shrubs, and groundcover on less than 80% of the water resource area and less than 50% tree canopy coverage in the primary and secondary habitat conservation area to be preserved. "Vegetative improvements" will be documented by submitting a revegetation plan meeting CDC Section 28.160 criteria that will result in the primary and secondary habitat conservation area to be preserved having a combination of native trees, shrubs, and groundcover on more than 80% of its area, and more than 50% tree canopy coverage in its area. The vegetative improvements shall be guaranteed for survival for a minimum of two years. Once approved, the applicant is responsible for implementing the plan prior to final inspection.

3. Tree cutting shall be prohibited in the protection area except that:

a) Diseased trees or trees in danger of falling may be removed

with City Arborist's approval and

b) Tree cutting may be permitted in conjunction with those uses listed in Section 28.030 with City Arborist approval; to the extent necessary to accommodate the listed uses.

c) Selective cutting in accordance with the Oregon Forest Practices Act, if applicable, shall be permitted with City Arborist approval within the area between the OHW and the greenway boundary provided the natural scenic qualities of the greenway are maintained.

### **28.120 SITE PLAN**

A. All site plans and maps shall include the name, address and telephone number of the applicant, a lineal scale of the plot plan, a north arrow and a vicinity map.

B. The applicant shall submit a site plan drawn to an appropriate scale (in order of preference; 1"=10' to 1" = 30'), which contains the following information:

1. Assessor's Map number and tax lot number.
2. The parcel boundaries, dimensions and gross area.
3. The applicant's property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development to the adjacent property and development.
4. The location, dimensions, and names of all existing and platted streets and other public ways and easements on adjacent property and on the site.
5. The location, dimensions and setback distances of all:
  - a. Existing structures, improvements, utility facilities and drainage ways on site and on adjoining properties;
  - b. Proposed structures or changes to existing structures, improvements, utility facilities and drainage ways on the site.
6. All developments shall define and map existing public access rights on, and adjacent to, the subject property.
7. A slope contour map at minimum 2 foot intervals showing slope

classifications of 0-25% and greater than 25%.

8. If a wetland on the West Linn Local Wetland Inventory is identified on the property and the proposed activity is expected to encroach within 25 feet of the wetland, a delineation of the precise boundaries of that wetland prepared by a wetland biologist.
9. The location of the ordinary high water mark and the ordinary low water mark on the property and on abutting properties.
10. The delineation of areas designated “Not Affected by Recommendation” or “Allowed Development” and HCA areas by low, medium and high classification shall be mapped based on Metro’s HCA map and any necessary verification shall be done by the Planning Director.

#### **28.130 GRADING PLAN**

A. The grading plan shall be at the same scale as the Site Plan (Section 20.130) and shall show:

1. The location and extent to which grading will take place indicating general contour lines, slope ratios, and slope stabilization proposals.
2. The location of the proposed drainage ways.
3. All grading in the 100 year and 1996 floodplain areas and in areas at, or below, OHWM shall require a study by accredited professional to demonstrate that the addition or removal of material including the addition of rip rap and other stabilization measures will not adversely impact the subject property plus upstream or downstream properties by causing erosion or deposits on those properties, particularly in the event of a flood.
4. Show erosion control measures.

#### **28.140 ARCHITECTURAL DRAWINGS**

A. Architectural drawings shall be submitted at the same scale as the Site Plan scale, as described in the site plan, showing:

1. Elevations of structure(s). For additions, the drawings should clearly distinguish between existing structure and proposed addition and show distance from addition and existing structure to the protected water resource.
2. The exterior building materials: type, color, and texture.

3. For docks, all pilings and their heights shall be shown. The applicant shall indicate the depth from the end of the dock to the river bottom during typical summer months. The applicant shall also provide any available product literature and photographs from the manufacturer or installer.

4. For docks, the applicant shall provide a plan view of the structure in relation to the shoreline and river. The plans shall also indicate graphically the OLW and the OHW and the DSL's preference rights and authorized area.

### **28.150 LANDSCAPE PLAN**

A. The landscape plan shall be prepared per Site Plan standards (Section 28.120) and in addition shall show:

1. The location, size and type of existing trees and location and type vegetation to be removed and to be retained;
2. The location and design of landscaped areas;
3. The varieties and sizes of trees and materials to be planted;
4. The location and height of fences and other buffering or screening materials; and
5. The location, materials, dimensions and design of terraces, decks, patios, shelters, footpaths, retaining walls and play areas.

B. Revegetation Plan per CDC 32.080.

### **28.160 MITIGATION PLAN**

If any HCA is permanently disturbed as a result of the proposed development of any uses or structures, the applicant shall prepare and implement a re-vegetation and mitigation plan pursuant to the provisions of CDC 32.070 and 32.080.

### **28.170 PENALTIES**

Violation of any provision or requirement of this chapter or conditions of approval is a Class A infraction, and shall also constitute a public nuisance. Each day of violation constitutes a separate offense. In addition, the City retains the authority to require any water resource area which has been altered illegally, to have erosion control measures put in place and be re-established to its natural condition, including replanting trees, shrubs, etc. and reseeding open areas at the owner's expense. In addition, the City Attorney may

institute any necessary legal proceedings to enforce the provisions of this chapter, or cure any problems resulting from violations of this chapter.

(AMENDED PER ORD. 1474, 9/01; ORD. 1549 5/07; ORD. 1576 9/08)



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**31.000 EROSION CONTROL**

**31.010 PURPOSE**

The purpose of this section is to require erosion prevention measures and sediment control practices for all development in the City of West Linn during all phases of construction to prevent and restrict the discharge of sediments, and to require final permanent erosion prevention measures after development is completed.

*Erosion prevention* techniques shall be designed to protect soil particles from the force of water and wind so they will not be transported from the site. *Sediment control* measures shall be designed to capture soil particles after they have become dislodged by erosion and attempt to retain the soil particles on site.

**31.020 APPLICABILITY**

This document applies to development that may cause visible or measurable erosion on any property within the City of West Linn. In instances where this chapter conflicts with other applicable City codes, the more restrictive provision shall apply.

**31.030 PERMIT REQUIRED**

An erosion and sediment control permit is required prior to, or concurrently with, approval of development that may cause visible or measurable erosion. To obtain an erosion and sediment control permit, an Erosion and Sediment Control Plan shall be required. For areas within the Tualatin River Basin, the Erosion and Sediment Control Plan shall comply with the Oregon Administrative Rules relating to water quality in the Tualatin River Basin (OAR Chapter 340).

**31.040 THE APPLICATION**

- A. An application shall be initiated by the property owner, or the owner's authorized agent, and shall be accompanied by the appropriate fee.
- B. An application submittal shall include the completed application form and 3 copies of responses to the approval criteria, except for any plans which shall include 3 copies at the original scale and 3 copies reduced to a paper size not greater than 11 X 17 inches.

- C. The Erosion and Sediment Control Plan shall follow the guidelines of the *Erosion Prevention and Sediment Control Plans, Technical Guidance Handbook*. (Clackamas County Department of Utilities, August 1994).

The following information shall be submitted on the plan:

1. The name, address, phone number, mobile phone number, and fax number of the site steward responsible for erosion control at the project site throughout project duration.
2. The name, address, and 24-hour contact number(s) of the designated emergency contact person.
3. A description of existing topography and soil characteristics described in the Clackamas County Soil Survey.
4. The applicant shall submit a plan drawn to an appropriate scale (in order of preference; 1" = 10' to 1" = 30'), which contains the following information:
  - a. Existing and proposed contour lines at the following minimum intervals:
    - 1) Two-foot intervals for slopes 0 – 25 percent; and,
    - 2) Five-or-ten foot intervals for slopes in excess of 25 percent slope.
  - b. Location of proposed stormwater facilities including cross-sections;
  - c. The location of all existing natural features including, but not limited to, delineation of Water Quality Resource Areas (if applicable) and trees of a caliper greater than six inches in diameter at breast height (DBH);
5. Locations of all existing and proposed channels, swales, or drainage pipes which either convey off-site stormwater through, or route stormwater around, the construction area. Identify the nearest receiving stream.
6. Locations and detailed designs of all proposed erosion and sedimentation control facilities as required by CDC Chapter 32.

7. Phasing of any proposed erosion and sedimentation control work clearly indicated on the plan. Include an activity schedule for each phase outlining specific Best Management Practices for the duration of the project.
8. Details and notes on the site plan for mulching and revegetation. Also include detailed planting procedures, topsoil requirements, seed/plant specifications, and plant maintenance specifications.

**31.050**

**THE APPLICATION FOR SINGLE-FAMILY HOMES**

This applies only to the development of an individual, single residential lot ½ acre (21,780 square feet) and smaller with a valid, City-issued building permit. This abbreviated erosion control plan is required whenever the issuance of the building permit will result in the creation of more than 1000 square feet of disturbed vegetation. The plan shall include the following information:

- A. The plan view shall be no smaller than 1" = 50' scale.
- B. Building permit number and/or legal description, and the name, address, phone number, and mobile phone number of the person or party to whom the permit is issued.
- C. The name, address, 24-hour phone number, mobile phone number, and fax number of the site steward responsible for erosion control at the project site throughout project duration.
- D. Location and details of all proposed erosion and sedimentation control Best Management Practices.

**31.060**

**APPROVAL CRITERIA**

The City Engineer or designee shall make a written finding, as applicable, with respect to the following criteria when approving, approving with conditions, or denying an Erosion Control Permit.

- A. The Erosion and Sediment Control plan shall follow the guidelines of the *Erosion Prevention and Sediment Control Plans, Technical Guidance Handbook* (Clackamas County Department of Utilities most current edition).

- B. All developments shall be designed to minimize the disturbance of natural topography, vegetation, and soils.
- C. Designs shall minimize cuts and fills.
- D. The plan shall prevent erosion by employing prevention practices such as non-disturbance, construction phasing, seeding and mulch covers.
- E. The plan shall be designed to allow no more than 10 percent cumulative increase in natural stream turbidities, as measured relative to a control point immediately upstream of the turbidity causing activity. However, limited duration activities necessary to address an emergency or to accommodate essential dredging, construction, or other legitimate activities, and that cause the standard to be exceeded, may be authorized provided all practicable turbidity control techniques have been applied.
- F. The applicant shall actively manage and maintain erosion control measures and utilize techniques described in the permit to prevent erosion and control sediment during and following development. Erosion prevention and sediment control measures required by the permit shall remain in place until disturbed soil areas are permanently stabilized by landscaping, grass, approved mulch, or other permanent soil stabilizing measure.
- G. No mud, dirt, rock, or other debris shall be deposited upon a public street or any part of the public stormwater system, surface water system, Water Quality Resource Area, or any part of a private stormwater system or surface water system that drains or connects to the public stormwater or surface water system.
- H. Projects with a minimum development size of one acre, including subdivisions, apartments, commercial and industrial, shall meet the following requirements:
  - 1. The Erosion Prevention and Sediment Control plan is designed by a certified erosion control specialist; and,
  - 2. The developer enters into an agreement with the City stating that in the event an erosion emergency occurs and is not repaired within

24 hours of the time the City notifies the developer, the City may hire a contractor or employ City staff to repair the erosion problem and bill the developer 125% of the cost to the City.

**31.070 EROSION AND SEDIMENT CONTROL DESIGN STANDARDS**

The following specific methods of soil erosion and sediment control shall be used during construction to control visible and measurable erosion. These methods shall be consistent with the *Erosion Prevention and Sediment Control Plans, Technical Guidance Handbook* (Clackamas County Department of Utilities most current edition).

- A. All land area proposed for excavation, vegetation removal, soil stockpiling, or which will have exposed soil shall be considered part of the development site.
- B. May 1 through September 30, the duration of soil exposure shall be kept to a maximum of 21 days. All disturbed soil that remains exposed for 21 days or more during construction shall be treated with an erosion control cover (i.e., plastic, seeding or mulching), following grading or construction, until soils are revegetated or otherwise stabilized.
- C. October 1 through April 30, the duration of soil exposure shall be kept to a maximum of 7 days. All disturbed soil that remains exposed for 7 days or more during construction shall be treated with an erosion control cover (i.e., plastic, seeding or mulching), following grading or construction, until soils are revegetated or otherwise stabilized.
- D. During construction, runoff from the development site shall be controlled, and runoff and sediment resulting therefrom shall be retained on site.
- E. A stabilized pad of gravel shall be laid and maintained at all entrances and exits to any development site from which vehicular traffic may track soil or debris onto the public right-of-way. The gravel pad(s) shall be installed and inspected by city staff prior to any development or site preparation. No other vehicular entrance or exit may be used to access the development site.

- F. Gravel pads shall be maintained to function properly. If the gravel pad does not adequately remove dirt and mud from the vehicle wheels, such that mud tracking is evident off site, additional measures must be taken.
- G. Topsoil removed for development shall be stockpiled and reused to the degree necessary to restore disturbed areas to their original or enhanced condition, or to assure a minimum of six inches of stable topsoil for revegetation. Additional soil shall be provided if necessary, to support revegetation. Soil shall be stockpiled outside of tree dripline, so as not to affect existing tree health.
- H. The owner shall be responsible for the prompt clean-up of all sediments that are carried onto any public or private streets, or onto adjacent property as soon as the owner becomes aware of such problems or within the time required by the City. The owner shall be responsible for cleaning and repairing streets, catch basins, drainageways, storm water drainage facilities, and adjacent properties contaminated or damaged by sediment. Failure to do so will be in violation of this Code.

**31.080 PENALTIES AND ENFORCEMENT**

The City is authorized to make inspections and take such actions as required to enforce the provisions of this document as outlined in CDC Chapter 106.040 and the City of West Linn Municipal Code. Failure to comply with any provision of this Chapter or with any term of an Erosion Control Permit shall be deemed a violation of this ordinance and subject to enforcement action pursuant to applicable Agency and City ordinance.

**31.090 PROCEDURES AND APPROVAL PROCESS**

- A. An erosion control permit subject to City approval, is a permit for which approval will be granted by the City Engineer or designee provided all conditions are satisfied; and
  - 1. The City Engineer or designee shall make the decision in the manner provided by Section 99.060.
  - 2. The decision may be appealed to the Planning Commission as proscribed by Section 99.240(A).

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## **32.000 WATER RESOURCE AREA PROTECTION**

### **32.010 PURPOSE AND INTENT**

CDC Chapter 32 has two primary purposes, which serve to accomplish different public policy objectives, but which have overlapping methods of meeting these purposes:

- A. Improve water quality and protect the functions and values of water resource areas that consist of protected water features and associated vegetated corridors. The functions and values of these areas include: providing a vegetated corridor to separate protected water features from development; maintaining or reducing stream temperatures; maintaining natural stream corridors; minimizing erosion, nutrient and pollutant loading into water; providing filtering, soil infiltration and natural water purification; and stabilizing slopes to prevent landslides contributing to sedimentation of water features.
- B. Control and prevent flooding and erosion for the protection of public health and safety.
- C. Protect and improve the following functions and values that contribute to fish and wildlife habitat in urban streamside areas:
  - 1. Microclimate and shade
  - 2. Stream flow moderation and water storage
  - 3. Bank stabilization, sediment, and pollution control
  - 4. Large wood recruitment and retention and channel dynamics; and
  - 5. Retention of organic material sources.
- D. Provide mitigation standards for the replacement of both water quality values and ecological functions and values lost through development adjacent to water resource areas.
- E. Control and prevent water pollution for the protection of public health and safety, and comply with federal laws including the Federal Clean Water and Endangered Species Acts.

## 32.020

### APPLICABILITY

- A. This section applies to properties upon which a natural drainageway, wetland, riparian corridor, and/or associated transition and setback area, is located. For example, the subject property may be defined as one property that contains a wetland or creek plus an adjacent property of different ownership that includes the transition area or setback area.
- B. The provisions of this chapter apply to all zones and uses within the City limits. No person, unless excepted by Section 32.020(C) or (D), may clear, fill, build in, or alter existing water resource areas without having obtained a permit from the decision-making authority.
- C. The provisions of this chapter shall apply to development proposals that have water resource areas within their project boundary. Therefore, the actual wetland, creek, open channel, or stream does not have to be on the subject property under review. This chapter shall not apply to designated enclosed storm drains that appear in the most recently adopted West Linn Surface Water Management Plan, unless the enclosed storm drain is opened as a result of the proposed development. The provisions shall also not apply to small man-made open roadside drainage swales in residential areas, even if such roadside swales are identified as open channels by the most recently adopted West Linn Surface Water Management Plan. The provisions of this chapter also do not apply to drainage ditches and open channel improvements created in the interior of individual residential lots that are not identified on the Surface Water Management Plan Map.
- D. Exceptions. The following actions are excepted from the provisions of this chapter:
  - 1. The action of any City officer or employee of any public utility to remove or alleviate from immediate danger to life or property, to restore existing utility service or to reopen a public thoroughfare to traffic provided that after the emergency has passed, adverse

impacts are mitigated in accordance with CDC 32.070.

2. The routine maintenance of any existing water resource area such as removing dead or dying vegetation that constitutes a hazard to life or property, pollutants, trash, eroded material, etc.
3. Routine repair and maintenance of legally established structures, utilities, roads, and manmade water control facilities such as constructed ponds or lakes, wastewater facilities, and stormwater treatment facilities that do not alter the location or footprint of the structure, utility, or road.
4. Stream, wetland, riparian and upland enhancement or restoration projects done with approval of city staff and regulatory agency personnel (e.g., ODFW, OR DSL).
5. Maintenance of existing gardens, pastures, lawns, and landscape perimeters, including the installation of new irrigation systems within existing gardens, lawns, and landscape perimeters.  
However, the city encourages restoration of areas within the drainageway transition to native vegetation.
6. Temporary and minor clearing not to exceed 200 square feet for the purpose of site investigations and pits for preparing soil profiles, provided that such areas are restored to their original condition when the investigation is complete. For wetlands, such clearing shall not occur within the actual wetland itself, but only within the adjacent wetland transition area. While such temporary and minor clearing is exempt from the provisions of this chapter, it is subject to all other city codes, including provisions for erosion control and tree removal.
7. Removal of plants identified as nuisance or prohibited plants on the Metro Native Plant List and the planting or propagation of plants identified as native plants on the Metro Native Plant List. Handheld tools must be used to remove nuisance or prohibited

plants, and after such removal all open soil areas greater than 25 square feet must be replanted.

8. Additions, alterations, replacement, or rehabilitation of existing structures or other site improvements, provided that:
  - a. The site footprint of any additions or alterations to existing structures (including decks), roadways, driveways, accessory uses and structures, and development shall not increase total encroachment into the water resource area required by Table 32.1, except that
    - i. a lateral extension of an existing building footprint by up to ten feet is allowed if the lateral extension does not encroach any further into the water resource area than the portion of the existing footprint immediately adjacent; and
    - ii. an addition to the existing structure on the side opposite of the existing water resource area shall be allowed.
  - b. Rehabilitation or replacement of an existing structure, including decks, shall not increase the existing structural footprint within the water resource area.
9. New or replacement accessory structures and features (such as pedestrian foot-bridges, gazebos, patios, and play structures)) to existing residences, provided that the accessory structure complies with all setback criteria contained within Table 32.1, or the accessory structure is a replacement in kind of an existing structure on the same or lesser footprint.
10. New single-family residences on existing lots of record established on or prior to the effective date of this ordinance, provided that all proposed structures and improvements comply with the setback criteria contained within Table 32.1.

11. Interior remodeling of a structure so long as the use of the structure is not changed.

**32.025 PERMIT REQUIRED**

No person shall be permitted to fill, strip, install pipe, undertake construction, or in any way alter an existing water resource area without first obtaining a permit to do so from the decision making authority, paying the requisite fee, and otherwise complying with all applicable provisions of this ordinance.

**32.030 PROHIBITED USES**

Prohibited uses in water resource areas include the following:

- A. Any new lawn area or garden area consisting primarily of non-native vegetation.
- B. Planting of any species identified as nuisance or prohibited plants on the Metro Native Plant List.
- C. Uncontained areas of hazardous materials as defined by the Department of Environmental Quality and dumping of any materials of any kind.
- D. Trimming and removal of existing native vegetation from the transition and setback area unless it is to reestablish native vegetation in place of non-native or invasive vegetation pursuant to CDC 32.020(D)(7), or if the vegetation constitutes a hazard to life or property pursuant to CDC 32.020(D)(2).

**32.040 THE APPLICATION**

- A. An application for development on property containing a water resource area shall be initiated by the property owner, or the owner's authorized agent, and shall be accompanied by the appropriate fee.
- B. A pre-application conference shall be a prerequisite to the filing of the application.
- C. The application shall include a site plan and topographic map of the parcel pursuant to Section 32.060. The applicant shall submit three copies of all

maps and diagrams at original scale and three copies reduced to a paper size not greater than 11 x 17 inches, and an electronic copy of all maps on a compact disc. The Planning Director may require the map to be prepared by a registered land surveyor to ensure accuracy.

- D. The site plan map shall be accompanied by a written narrative addressing the approval criteria in Section 32.050-and-if necessary, addressing the reason why the owner wishes to alter the natural drainageway.
- E. All proposed improvements to the drainageway channel or creek which might impact the storm load carrying ability of the drainageway shall be designed by a registered civil engineer.
- F. The applicant shall present evidence in the form of adopted utility master plans or transportation master plans, or findings from a licensed engineer to demonstrate that the development or improvements are consistent with accepted engineering practices.
- G. The applicant shall prepare an assessment of the existing condition of the water resource area consisting of an inventory of vegetation, including percentage ground and canopy coverage.
- H. If necessary, the applicant shall also submit a mitigation plan pursuant to CDC 32.070, and a revegetation plan pursuant to CDC 32.080.

### **32.050**

#### **APPROVAL CRITERIA**

No application for development on property containing a water resource area shall be approved unless the decision-making authority finds that the following standards have been satisfied, or can be satisfied by conditions of approval.

- A. Proposed development submittals shall identify all water resource areas on the project site. The most currently adopted Surface Water Management Plan) shall be used as the basis for determining existence of drainageways. The exact location of drainageways identified in the Surface Water Management Plan, and drainageway classification (e.g., open channel vs. enclosed storm drains), may have to be verified in the field by the City Engineer. The Local

Wetlands Inventory shall be used as the basis for determining existence of wetlands. The exact location of wetlands identified in the Local Wetlands Inventory on the subject property shall be verified in a wetlands delineation analysis prepared for the applicant by a certified wetlands specialist. The Riparian Corridor inventory shall be used as the basis for determining existence of riparian corridors.

- B. Proposed developments shall be so designed as to maintain the existing natural drainageways and utilize them as the primary method of stormwater conveyance through the project site unless the most recently adopted West Linn Surface Water Management Plan calls for alternate configurations (culverts, piping, etc.). Proposed development shall, particularly in the case of subdivisions, facilitate reasonable access to the drainageway for maintenance purposes.
- C. Development shall be conducted in a manner that will minimize adverse impact on water resource areas. Alternatives which avoid all adverse environmental impacts associated with the proposed action shall be considered first. For unavoidable adverse environmental impacts, alternatives that reduce or minimize these impacts shall be selected. If any portion of the water quality resource area is proposed to be permanently disturbed, the applicant shall prepare a mitigation plan as specified in CDC 32.070 designed to restore disturbed areas, either existing prior to development or disturbed as a result of the development project, to a healthy natural state.
- D. Water resource areas shall be protected from development or encroachment by dedicating the land title deed to the City for public open space purposes if either: 1) a finding can be made that the dedication is roughly proportional to the impact of the development; or, 2) the applicant chooses to dedicate these areas. Otherwise, these areas shall be preserved through a protective easement. Protective or conservation easements are not preferred because water resource areas protected by easements have

shown to be harder to manage and, thus, more susceptible to disturbance and damage. Required 15-foot wide structural setback areas do not require preservation by easement or dedication.

- E. The protected water resource area shall include the drainage channel, creek, wetlands, and the required setback and transition area. The setback and transition area shall be determined using the following table:

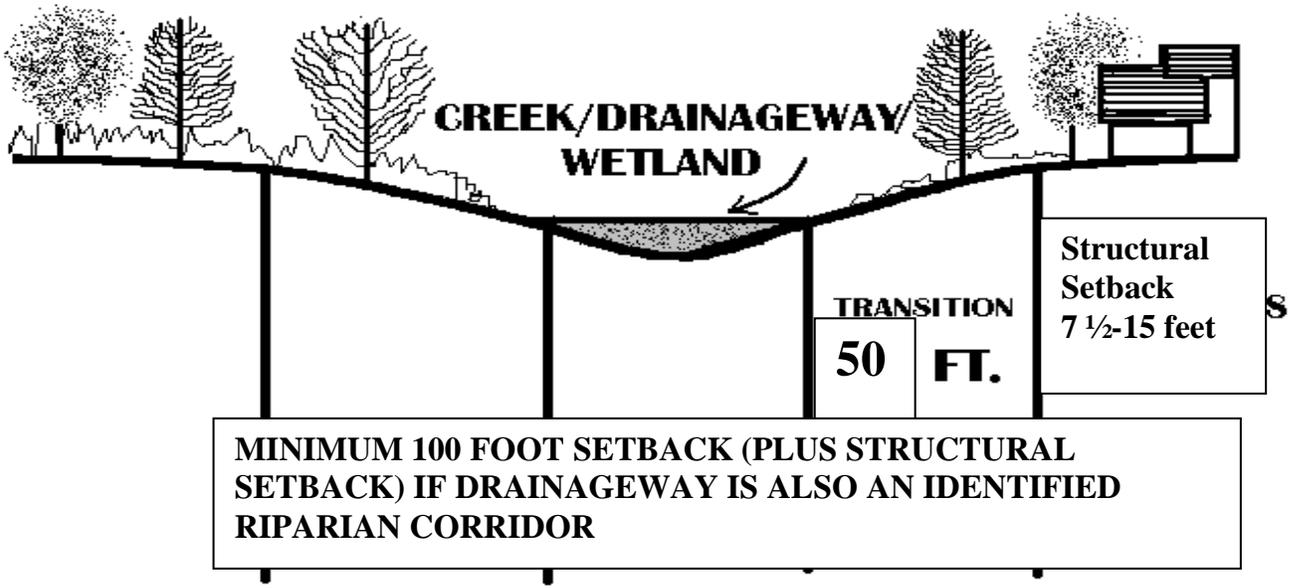
Table 32-1. Required Widths of Setback and Transition Area.

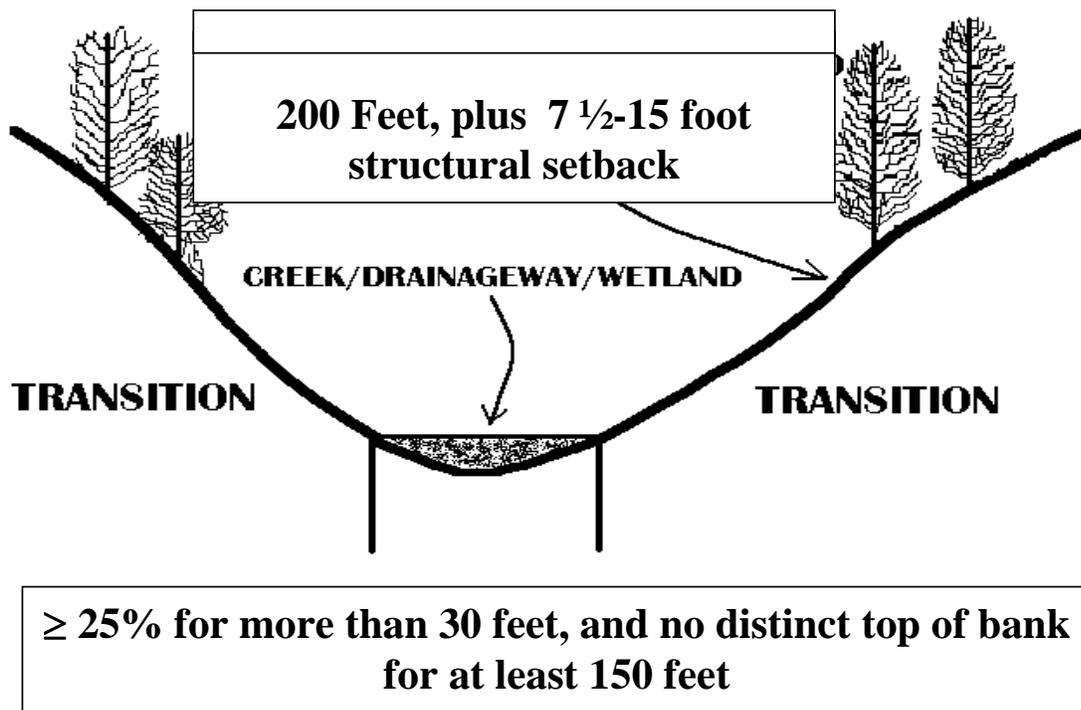
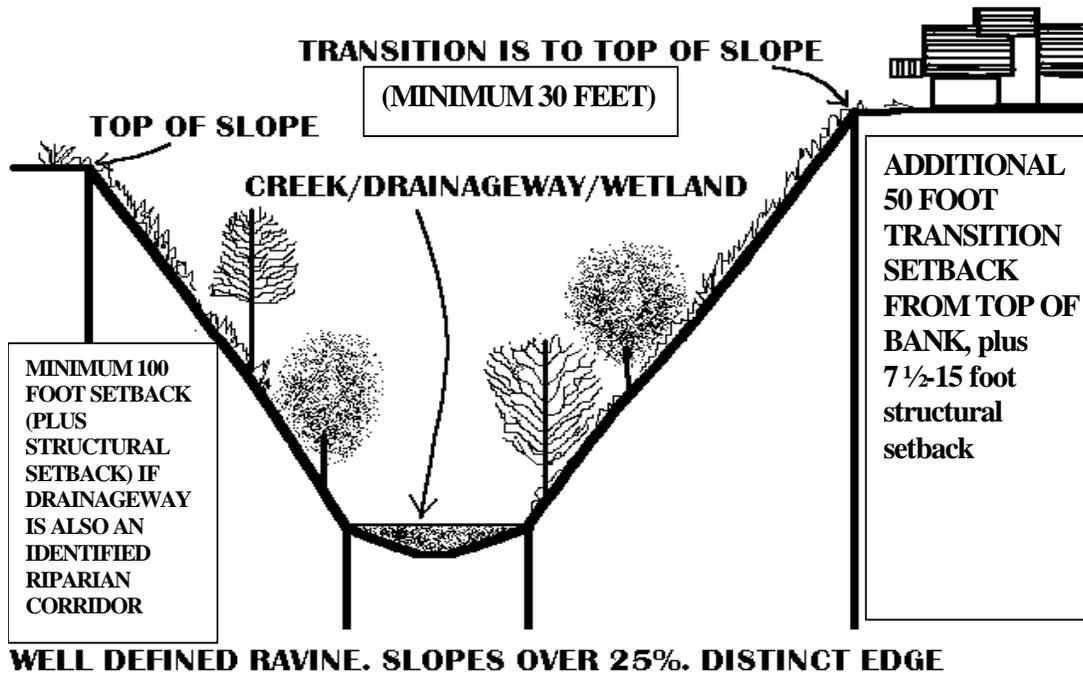
Protected Water Feature Type (see CDC Chapter 2 Definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Setback and Transition Area on each side of the water feature
Wetland, Major Drainageway, Minor Drainageway	0% - 25%	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of wetland</li> </ul>	50 feet plus structural setback.
Wetland, Major Drainageway, Minor Drainageway	$\geq 25\%$ to a distinct top of ravine <sup>1</sup>	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of wetland</li> </ul>	Distance from starting point of measurement to top of ravine <sup>1</sup> (30 foot minimum), plus an additional 50-foot setback, plus structural setback.
Wetland, Major Drainageway, Minor Drainageway	$\geq 25\%$ for more than 30 feet, and no distinct top of ravine for at least 150 feet	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of wetland</li> </ul>	200 feet, plus structural setback
Riparian Corridor	any	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level</li> </ul>	100 feet or the setback required under major and minor drainageway provisions, whichever is greater., plus structural setback
Formerly Closed Drainage Channel Reopened (see 32.050(N))	n/a	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level</li> </ul>	Variable: See CDC 32,050(N)

<sup>1</sup>Where the protected water feature is confined by a ravine or gully, the top of ravine is the location where the slope breaks at least 15% and the slope beyond the break remains less than 25% for at least 50 feet.

At least three slope measurements along the water feature, at no more than 100-foot increments, shall be made for each property for which development is proposed. Depending upon the width of the property, the width of the protected corridor will vary.

**SLOPE IS UNDER 25 %**





F. Roads, driveways, utilities, or passive use recreation facilities may be built in

and across water resource areas when no other practical alternative exists. Construction shall minimize impacts. Construction to the minimum dimensional standards for roads is required. Full mitigation and revegetation is required, with the applicant to submit a mitigation plan pursuant to CDC Section 32.070 and a revegetation plan pursuant to CDC Section 32.080. The maximum disturbance width for utility corridors is as follows:

- a. For utility facility connections to utility facilities, no greater than 10 feet wide.
  - b. For upgrade of existing utility facilities, no greater than 15 feet wide.
  - c. For new underground utility facilities, no greater than 25 feet wide, and disturbance of no more than 200 linear feet of Water Quality Resource Area, or 20% of the total linear feet of Water Quality Resource Area, whichever is greater.
- G. Prior to construction, the water resource area shall be protected with an anchored chain link fence (or approved equivalent) at its perimeter and shall remain undisturbed except as specifically allowed by an approved water resource area permit. Such fencing shall be maintained until construction is complete. The water resource area shall be identified with City-approved permanent markers at all boundary direction changes and at 30- to 50-foot intervals that clearly delineate the extent of the protected area.
- H. Paved trails, walkways, or bike paths shall be located at least 15 feet from the edge of a protected water feature except for approved crossings. All trails, walkways, and bike paths shall be constructed so as to minimize disturbance to existing native vegetation. All trails, walkways, and bike paths shall be constructed with a permeable material and utilize Low Impact Development (LID) construction practices.
- I. Sound engineering principles regarding downstream impacts, soil

stabilization, erosion control, and adequacy of improvements to accommodate the intended drainage through the drainage basin shall be used. Storm drainage shall not be diverted from its natural watercourse. Inter-basin transfers of storm drainage shall not be permitted.

- J. Appropriate erosion control measures based on CDC Chapter 31 requirements shall be established throughout all phases of construction.
- K. Vegetative improvements to areas within the water resource area may be required if the site is found to be in an unhealthy or disturbed state, or if portions of the site within the water resource area are disturbed during the development process. "Unhealthy or disturbed" includes those sites that have a combination of native trees, shrubs, and groundcover on less than 80% of the water resource area and less than 50% tree canopy coverage in the water resource area. "Vegetative improvements"-will be documented by submitting a revegetation plan meeting CDC Section 32.080 criteria that will result in the water resource area having a combination of native trees, shrubs, and groundcover on more than 80% of its area, and more than 50% tree canopy coverage in its area. Where any existing vegetation is proposed to be permanently removed, or the original land contours disturbed, a mitigation plan meeting CDC Section 32.070 criteria shall also be submitted. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Upon approval of the mitigation plan, the applicant is responsible for implementing the plan during the next available planting season.
- L. Structural Setback area: where a structural setback area is specifically required, development projects shall keep all foundation walls and footings at least 15 feet from the edge of the water resource area transition and setback area if this area is located in the front or rear yard of the lot, and 7 ½ feet from the edge of the water resource area transition and setback area if this area is located in the side yard of the lot. Structural elements may not be built on or cantilever over the setback area. Roof

overhangs of up to three feet are permitted in the setback. Decks are permitted within the structural setback area.

- M. Stormwater Treatment Facilities may only encroach a maximum of 25 feet into the outside boundary of the water resource area; and the area of encroachment must be replaced by adding an equal area to the water quality resource area on the subject property. Facilities that infiltrate storm water onsite, including the associated piping, may be placed at any point within the water resource area outside of the actual drainage course so long as the forest canopy and the areas within ten feet of the driplines of significant trees are not disturbed. Only native vegetation may be planted in these facilities.
  
- N. As part of any proposed land division or Class II Design Review application, any covered or piped drainageways identified on the Surface Water Quality Management Plan Map shall be opened, unless the City Engineer determines that such opening would negatively impact the affected storm drainage system and the water quality within that affected storm drainage system in a manner that could not be reasonably mitigated by the project's site design. The design of the reopened channel and associated transition area shall be considered on an individualized basis, based upon the following factors:
  - 1. The ability of the reopened storm channel to safely carry storm drainage through the area.
  - 2. Continuity with natural contours on adjacent properties
  - 3. Continuity of vegetation and habitat values on adjacent properties.
  - 4. Erosion control
  - 5. Creation of filters to enhance water quality

6. Provision of water temperature conducive to fish habitat
7. Consideration of habitat and water quality goals of the most recently adopted West Linn Surface Water Management Plan.
8. Consistency with required site Mitigation Plans, if such plans are needed.

The maximum required setback under any circumstance shall be the setback required as if the drainage way were already open.

The maximum required setback under any circumstance shall be the setback required as if the drainage way were already open.

- O. The decision-making authority may approve a reduction in applicable front yard setbacks abutting a public street to a minimum of fifteen feet and a reduction in applicable side yard setbacks abutting a public street to 7 ½ feet if the applicant demonstrates that the reduction is necessary to create a building envelope on an existing or proposed lot of at least 5,000 square feet.
- P. Storm Drainage Channels not identified on the Surface Water Management Plan Map, but identified through the development review process, shall be subject to the same setbacks as equivalent mapped storm drainage channels.

## **32.060**

### **SITE PLAN**

- A. All site plans and maps shall include the name, address, and telephone number of the applicant, the scale of the plan, a north arrow, and a vicinity map.
- B. The applicant shall submit a site plan drawn to a 1"=10' to 1"=30' scale, which contains the following information:
  1. Existing and proposed contour lines at the following minimum

intervals:

- a. Two-foot intervals for slopes from 0-25 percent; and,
  - b. Five-foot intervals for slopes in excess of 25 percent.
2. A slope map delineating areas greater than and less than 25% slope.
  3. Location of the water resource areas on the site.
  4. Location of proposed stormwater facilities;
  5. Location of all existing natural features including, but not limited to, delineation of water resource areas. The widths of the transition and setback areas described in Table 32-1 shall be shown on the site plan.
  6. Location of all trees measured at six inches diameter at breast height (DBH) or greater and a description of existing vegetation species. Where only a portion of a water quality resource area is to be disturbed, the tree inventory need only apply to the impacted area. The remaining treed area shall be depicted by outlining the canopy cover.
  7. Detailed site plans of the proposed development outlining total disturbance area, including proposed building footprints, site property improvements, grading plans, accessways, utilities, and landscaping.
  8. The presence of wetlands shown on site plans shall be based on wetlands delineations conducted following methods accepted by the U.S. Army Corps of Engineers and the Oregon Division of State Lands. Written concurrence by the Oregon Division of State Lands DSL with the wetlands delineation must be obtained and submitted as part of the development application. The delineation shall be prepared by a certified wetlands specialist.

**32.070 MITIGATION PLAN**

A mitigation plan shall be required if any portion of the water resource area is

proposed to be permanently disturbed by development.

- A. All mitigation plans must contain an alternatives analysis demonstrating that:
  - 1. No practicable alternatives to the requested development exist that will not disturb the water resource area; and,
  - 2. Development in the water resource area has been limited to the area necessary to allow for the proposed use; and,
  - 3. An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to the water resource area will be avoided and/or minimized.
- B. A mitigation plan shall contain the following information:
  - 1. A description of adverse impacts that will be caused as a result of development.
  - 2. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not limited to, the revegetation provisions of CDC Section 32.050(K).
  - 3. A list of all responsible parties including, but not limited to, the owner, applicant, contractor, or other persons responsible for work on the development site.
  - 4. A map showing where the specific mitigation activities will occur.
  - 5. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting, and a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife water work periods.
  - 6. Assurances shall be established to rectify any mitigation actions that are not successful. This may include bonding or other surety.
  - 7. Evidence that a Joint Permit Application (to the U.S. Army Corps and OR DSL) if impacts to wetlands are greater than 0.10 acres, has been submitted and accepted for review.

- C. Mitigation of any water resource areas that are not wetlands that are permanently disturbed shall be accomplished by creation of a mitigation area equal in size to the area being disturbed. Mitigation areas may be land that is either
1. On-site, not within the water resource area, and is characterized by existing vegetation qualifying that does not meet the standard set forth in CDC Section 32.050(K), or
  2. Off-site, and is characterized by existing vegetation that does not meet the standard set forth in CDC Section 32.050(K).

The applicant shall prepare and implement a revegetation plan for the mitigation area pursuant to CDC Section 32.080, and which shall result in the area meeting the standards set forth in CDC Section 32.050(K).

Adequacy of off-site mitigation areas on city property must be consistent with and meet approval of the City Department of Parks and Recreation. Any off-site mitigation occurring on privately-owned land shall be protected with a conservation easement.

- D. The Mitigation Plan for any wetland area to be disturbed shall be 1) prepared and implemented with the guidance of professionals with experience and credentials in wetland areas and values, and 2) be consistent with requirements set forth by regulatory agencies (U.S. Army Corps and OR DSL) in a Joint Permit Application, if such an Application is necessary for the disturbance. Where the alternatives analysis demonstrates that there are no practicable alternatives for mitigation on site, off-site mitigation shall be located as follows:

1. As close to the development site as is practicable above the confluence of the next downstream tributary, or if this is not practicable;
2. Within the watershed where the development will take place, or as

otherwise specified by the City in an approved wetland mitigation bank.

- E. To ensure that the mitigation area will be protected in perpetuity, proof that the area has been dedicated to the City or a conservation easement has been placed on the property where the mitigation is to occur is required.

**32.080 REVEGETATION PLAN REQUIREMENTS**

Metro’s native plant list is incorporated by reference as a part of CDC Chapter 32, and all plants used in revegetation plans shall be plants found on the Metro native plant list. Performance standards for planting upland, riparian and wetland plants include the following:

- A. Native trees and shrubs will require temporary irrigation from June 15 to October 15 for the three years following planting.
- B. Invasive non-native or noxious vegetation shall be removed within the area to be revegetated prior to planting.
- C. Replacement trees must be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round) unless they are oak or madrone, which may be one gallon size. Shrubs must be in at least a one-gallon container or the equivalent in ball and burlap and must be at least 12 inches in height.
- D. Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on-center, or clustered in single species groups of no more than 4 plants, with each cluster planted between 8 and 10 feet on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing requirements.
- E. Shrubs must consist of at least two different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same species.

- F. The responsible party shall provide an appropriate level of assurance documenting that 80 percent survival of the plants has been achieved after three years, and shall provide annual reports to the Planning Director on the status of the revegetation plan during the three year period.

**32.090**

**REDUCTION IN STANDARDS FOR HARDSHIP**

The purpose of CDC Section 32.090 is to ensure that compliance with CDC Chapter 32 does not cause unreasonable hardship. To avoid such instances, the requirements of CDC Chapter 32 may be reduced. Reductions are also allowed when strict application of CDC Chapter 32 would deprive an owner of all economically viable use of land. The decision making authority may impose such conditions as are deemed necessary to limit any adverse impacts that may result from granting relief.

- A. Lots located completely inside the water resource area. Development may occur on lots located completely within the water resource area that are recorded with the County Assessor’s Office on or before the effective date of this ordinance. Development shall disturb the minimum necessary area to allow the proposed use or activity, and in any situation no more than 5,000 square feet of the water resource area, including access roads and driveways, subject to the erosion and sediment control standards in CDC Chapter 31 , and subject to a finding that the proposed development does not increase danger to life and property due to flooding and erosion.
- B. Lots located partially inside the water resource area. A reduction to avoid the loss of all economically viable use of a vacant lot recorded with the County Assessor’s Office on or before the effective date of this ordinance that is partially inside the water resource area is permitted. Development on such lots shall not disturb more than 5,000 square feet of the water resource area, including access roads and driveways, subject to the erosion and sediment control standards of CDC Chapter 31. Applicants must demonstrate the following:
  - 1. Without the proposed reduction, the applicant would be denied

economically viable use of the subject property. To meet this criterion, the applicant must show that no other application could result in permission for an economically viable use of the subject property. Evidence to meet this criterion shall include a list of uses allowed on the subject property.

2. The proposed intrusion is the minimum necessary to allow economically viable use of the subject property.
3. The proposed reduction will comply with CDC Chapter 31, Erosion Control;

C. If a reduction in standards is granted pursuant to criteria of CDC 32.090(B), the reduction shall be subject to the following conditions:

1. The minimum width of the water resource area's transition and setback area shall be 15 feet on each side of a wetland or drainage course.
2. As mitigation for the permanent disturbance of any portion of the normally required water resource area, an equal area on the property which would not normally be within the water resource area shall be revegetated to meet the standards of CDC 32.050(K). If there does not exist enough site area to meet this requirement, the applicant shall revegetate the entire area of the property that would not normally be within the water resource area, adjacent to the actual water resource area, and is not proposed for permanent disturbance to meet the standards of CDC 32.050(K)

D. Any further reduction of the standards of this chapter shall require approval of a Variance pursuant to CDC Chapter 75.

## **32.100 PENALTIES**

Violation of any provision or requirement of this chapter or conditions of

approval is a Class A infraction, and shall also constitute a public nuisance. Each day of violation constitutes a separate offense. In addition, the City retains the authority to require any water resource area which has been altered illegally, to be re-established to its natural condition, including replanting trees, shrubs, etc. and reseeding open areas at the owner's expense. In addition, the City Attorney may institute any necessary legal proceedings to enforce the provisions of this chapter, or cure any problems resulting from violations of this chapter.

(ORD. 1545)



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**33.000 STORM WATER QUALITY AND DETENTION**

**33.010 PURPOSE**

The purpose of CDC Chapter 33 is to implement the Comprehensive Plan; meet the objectives of the "Clean Water Act" of the federal government by restoring and maintaining the chemical, physical, and biological integrity of waterbodies and waterways; provide water purification, flood control and streambank stability; provide aesthetic value; and provide for stormwater management to reduce the impacts of stormwater runoff (water quantity) and pollution (water quality) resulting from development. As development results in the replacement of large areas of existing pervious surface cover such as meadows or wooded areas with impervious material such as roads, parking lots, and roofs, stormwater detention is necessary to ensure that post-development stormwater runoff volumes do not exceed pre-development runoff volumes. Stormwater treatment is necessary in order to reduce sediment, nutrient, and pollutant loading into waterbodies and waterways.

**33.020 APPLICABILITY**

CDC Chapter 33 applies to all new development and redevelopment sites, as required by the City's Public Works Design Standards, except one- and two-family dwellings that do not involve a land division.

**33.030 THE APPLICATION**

In conjunction with a Design Review or Land Division application, the following materials shall be submitted:

- A. An application submittal shall include the completed application form and three copies of responses to the approval criteria, except for any plans which shall include three copies at the original scale and three copies reduced to a paper size not greater than 11 x 17 inches.
- B. A site plan and topographic map consistent with CDC Section 33.070 shall be submitted with the application.
- C. The design details of the stormwater detention and treatment facilities shall be submitted per the standards set forth in the Public Works Design Standards. The application submittal shall include an operation and

maintenance plan per the standards set forth in the Public Works Design Standards.

- D. The application submittal shall include a planting plan consistent with CDC Section 33.070.

### **33.040**

#### **APPROVAL CRITERIA**

The Planning Director and City Engineer shall make written findings with respect to the following criteria when approving, approving with conditions, or denying applications for stormwater detention permits and stormwater quality permits.

- A. Stormwater quality facilities shall meet non-point source pollution control standards required by the Public Works Design Standards.
- B. Design of stormwater detention and pollution reduction facilities and related detention and water quality calculations shall meet Public Works Design Standards and shall be prepared by a professional engineer licensed to practice in the state of Oregon.
- C. Soil stabilization techniques, erosion control, and adequate improvements to accommodate the intended drainage through the drainage basin shall be used. Storm drainage shall not be diverted from its natural watercourse unless no feasible alternatives exist. Interbasin transfers of storm drainage will not be permitted.
- D. Stormwater detention and treatment facilities shall encroach no further than 25 feet into the outside boundary of a water quality resource area. The area of encroachment must be replaced by adding an equal area to the water quality resource area on the subject property.
- E. Stormwater detention and treatment facilities shall be vegetated with plants from the Metro's native plant list as described in Section 33.070.
- F. Projects must either stockpile existing topsoil for re-use on the site or import topsoil, rather than amend subsoils. Soil amendments are allowed only where the applicant can demonstrate they are the only practical alternative for enabling the soil to support healthy plantings, promoting better stormwater treatment, or improving soil infiltration capacity (where appropriate).

- G. Interim erosion control measures, such as mulching, shall be placed immediately upon completion of grading of the facilities.

**33.050**

**SITE PLAN**

- A. All site plans and maps shall include the name, address, and telephone number of the applicant, the scale of the plan, a north arrow, and a vicinity map.
- B. The applicant shall submit a site plan drawn to a 1"=10' or other approved scale, which contains the following information:
  - 1. Existing and proposed contour lines at the following minimum intervals:
    - a. Two-foot intervals for slopes from 0-25 percent; and,
    - b. Five-foot intervals for slopes in excess of 25 percent.
  - 2. Location of proposed stormwater facilities including cross-sections;
  - 3. Location of all existing natural features including, but not limited to, delineation of water quality resource areas.
  - 4. Location of all trees measured at six-inch diameter at breast height or greater and a description of existing vegetation species. Where only a portion of a water quality resource area is to be disturbed by a stormwater facility, the tree inventory need only apply to the impacted area. The remaining treed area shall be depicted by outlining the canopy cover.
  - 5. Location, width, and material of access road to facilities for maintenance purposes according to Public Works Design Standards.

**33.060**

**MAINTENANCE AND ACCESS REQUIREMENTS**

Maintenance and access requirements shall meet Public Works Design Standards.

**33.070**

**PLANT MATERIAL FOR WATER QUALITY FACILITIES**

Metro's native plant list is incorporated by reference as a part of this chapter. The applicant shall submit a detailed planting plan using species from Metro's native plant list. The intent of this plan is to establish native vegetation to protect against

erosion and sediment infiltration. A mix of low maintenance trees, shrubs, and groundcover is preferred with an even distribution.

- A. The planting plan shall be prepared by a professional landscape architect if the development site contains more than 5,000 square feet of impervious area. The planting plan shall include a table listing the scientific names, size, and quantity of plants.
- B. The plan shall include plant location, species, size, and quantity for stormwater detention and treatment facilities. Evergreen trees shall have a minimum height of four feet and deciduous trees shall be at least one-inch caliper in size at the time of planting. Shrubs shall be a minimum of one gallon in size at the time of planting. Spaces shall be filled at mature growth but not so that over planting occurs and overcrowding results. Temporary irrigation systems or other means of ensuring establishment of the plantings must be specified.
- C. Plantings shall be designed to minimize or eliminate the need for herbicides, fertilizers, pesticides, or soil amendments at any time before, during, or after construction, or on a long-term basis. Plantings shall be designed to minimize or eliminate the need for frequent mowing and irrigation.
- D. The applicant is responsible for implementing the planting plan during the next fall or spring planting season following permit approval. Prior to planting, noxious vegetation shall be removed. All soil areas must be covered with specified plants and mulch to prevent erosion.
- E. Plantings shall be incorporated into a Public Improvement Guarantee agreement, which includes a maintenance bond as required by CDC Section 91.010(C). The maintenance bond is required for any project involving stormwater quality and detention facilities.

(AMENDED PER ORD. 1463; 10/00)

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**34.000 ACCESSORY STRUCTURES, ACCESSORY USES, AND ACCESSORY USES**

**34.020 ACCESSORY USES**

Accessory uses are permitted uses which are customary and incidental to principal uses permitted in the zone and shall be permitted outright, or by prescribed conditions as identified below, and may be either attached or separated from the principal dwelling. (ORD. 1463)

- A. A greenhouse may be a maintained accessory to a dwelling provided the activity does not exceed that which requires a license under Chapter 571 of the Oregon Revised Statutes; Nurseries & Nurseryman.
- B. A television disk or satellite dish larger than three feet in diameter, and any other non-commercial antennae over three feet in height (minor utility), may be a maintained accessory to a dwelling provided it is not located within the front yard or side yard abutting a street, it is mounted on the ground, is screened from view, as practical, with landscaping, and otherwise meets the requirements of Section 34.050. The satellite dish shall not exceed a maximum height of 18 feet. (ORD. 1463)

Where it can be demonstrated that these restrictions impose unreasonable limitations to the extent that the antennae/satellite dish's reception or transmitting capability is significantly reduced, then roof-mounted (provided it is powder-coated with mesh or perforated construction) or alternate locations for the antennae/satellite dish may be allowed.

(ORD. 1350)

**34.030 ACCESSORY DWELING UNITS (ADUs)**

- A. An accessory dwelling unit (ADU) may be allowed in conjunction with an existing primary single-family dwelling by conversion of existing space inside the primary dwelling; by means of an addition to an existing dwelling; by means of an addition as an accessory structure; or by converting or adding to an existing accessory structure, such as a garage,

on the same lot with an existing primary dwelling, when the following conditions are met:

1. One off-street parking space for the ADU shall be provided in addition to the required parking for the primary dwelling except in those cases where the abutting street has a paved width of 28 feet or more and allows on-street parking.
2. Public services can serve both dwelling units.
3. The number of occupants is limited to no more than one family as defined by the Community Development Code.
4. The ADU does not exceed one bedroom and has an area between 250 and 1,000 square feet. If the ADU is located in an accessory structure, then it shall not exceed 30 percent of the gross square footage of the primary dwelling, except that an ADU may be a minimum of 250 square feet in size regardless of the size of the primary dwelling. No more than one ADU is allowed.
5. The ADU is in conformance with the setback and lot coverage requirements of the underlying zone.
6. The following minimum area standards shall be met:
  - 1 person – 250 square feet
  - 2 persons – 500 square feet
7. Existing accessory structures such as large workshops, offices, garages, etc., constructed prior to January 2000, that exceed dimensional standards prescribed above for ADUs may be converted into ADUs in the future so long as the occupied or inhabited area is restricted to less than 1,000 square feet. Existing structures are not required to meet the design standards of (B) 1-9 below, but shall conform to them to the greatest extent feasible.

- A. Design standards for both attached and detached ADUs are as follows:
1. Exterior finish materials. The exterior finish material must be the same or visually match in type, size, and placement, the exterior finish material of the primary dwelling.
  2. Roof Pitch. The roof pitch must be the same as the predominant roof pitch of the primary dwelling.
  3. Trim. Trim on edges of elements on the addition must be the same in type, size, and location as the trim used on the rest of the primary dwelling.
  4. Windows. Windows must match those in the primary dwelling in proportion (relationship of width to height). Second floor windows on the ADU should be placed and sized so as to achieve a reasonable amount of privacy for the abutting property owner(s).
  5. Eaves. Eaves must project from the building walls the same distance as the eaves on the rest of the primary dwelling.
  6. Setbacks. The detached ADU shall be at least 10 feet behind the front building line of the primary dwelling so as to maintain the primary status of the single-family home. The only exception allowed shall be for an ADU which is located above a detached garage, in which case, the setback of the ADU may be the same as that of the garage below.
  7. Height. The maximum height allowed for a detached ADU is 18 feet (as measured using Building Codes methodology). Attached ADUs may be higher than 18 feet, but cannot exceed the height of the existing primary dwelling.
  8. The main exterior entrance of the ADU shall be located on either the rear or side of the ADU so that the main entrance to the primary dwelling will not be in competition with the entrance to the ADU.
  9. Exterior stairs serving the ADU shall not face the front property line.

(ORD. 1463)



**34.040 SETBACK PROVISIONS FOR NOISE PRODUCING ACCESSORY STRUCTURES AND USES**

Noise producing accessory uses and structures such as heat pumps, swimming pool motors or pumps shall meet the setback requirements of the zone.

**34.050 BOAT HOUSE AND DOCKS**

Only side yard setback requirements apply to boat houses and docks.

**34.060 SETBACK PROVISIONS FOR ACCESSORY STRUCTURES (NON-DWELLING)**

Accessory structures such as garages, carports, garden/tool sheds, etc. shall comply with all requirements for the principal use except as provided in Section 34.040 and where specifically modified by this Code as follows:

A side yard or rear yard requirement may be reduced to three feet for an accessory structure except for a side or rear yard abutting a street, with the exception of alleys platted and dedicated prior to September 30, 1984, as defined in this Code, provided that:

- A. The structure is erected more than 60 feet from the front lot line;
- B. The structure does not exceed one story or 15 feet in height;
- C. The structure does not exceed an area of 500 square feet; and,
- D. The structure does not violate any existing utility easements.

(AMENDED PER ORD. 1463; 10/00)



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**35.000 TEMPORARY STRUCTURES AND USES**

**35.020 APPLICABILITY**

Notwithstanding the limitations of use as established by this Code in each of the several districts, the Planning Director may issue temporary permits for uses listed in Section 35.040 which are temporary in nature.

**35.030 TEMPORARY STRUCTURES AND USES, ADMINISTRATION AND APPROVAL PROCESS**

- A. The Director may issue temporary use permits:
1. For a period not to exceed 60 days from the date of issuance; and
  2. Such permits shall only be consecutively renewed for one additional 60-day period by the Director.
  3. The Director may issue temporary permits to registered non-profit, religious or benevolent groups, orders or associations for the placement of drop boxes, trailers, or structures of similar function. These drop boxes shall be placed in General Commercial, Office Business Center, Campus Industrial, General Industrial, and Neighborhood Commercial zoning districts only. The provisions of Section 44.030 (Screening) and Chapter 46, Off-Street Parking, Loading, and Reservoir Areas, shall apply. The temporary permit will be effective indefinitely, but will be revoked if it is unused or abandoned for a period of 60 days. The permit will also be revoked if material is not contained by the drop box or trailer and allowed to accumulate outside or on top of the drop box or trailer. Upon revocation of the permit, either the original applicant or property owner shall be responsible for removing the drop box or trailer. Approval criteria shall require:

- a. That the location, color, bulk, size and design of the structure be compatible with, and appropriate to the proposed location.
- b. That the structure be screened from adjacent residential uses, Chapter 44;
- c. That the structure comply with Chapter 48 of this Code; (ORD. 1425)
- 4. The Planning Director may issue temporary permits to non-profit and for profit groups or individuals for uses described in Section 35.040(A). (ORD. 1350)
- B. The Commission may issue temporary use permits that will terminate between 60 days and six months from the date of issuance.
- C. The City Council may issue temporary use permits that will terminate between six months and one year.
- D. The applicable approval authority may attach reasonable conditions to any temporary use permit approval which will protect the health, safety, and welfare of the City's residents.

**35.040 TEMPORARY USES**

- A. Temporary uses include:
  - 1. Uses associated with the celebration of a specific holiday such as the sale of Christmas trees and fireworks;
  - 2. Uses associated with the sale of fresh fruits, produce, and flowers;
  - 3. Uses associated with construction;
  - 4. Uses associated with festivals or celebrations or special promotional events; (ORD. 1350)
  - 5. A real estate office within a development limited to the sale of real estate in the development.
- B. Temporary uses described in Section 35.040(A) may be approved if they:

1. Are located on property that is appropriate for the proposed use as determined by the Planning Director;
2. Have a paved or graveled surface to minimize dust generation or mud tracking;
3. Have adequate parking and circulation space;
4. Are in an area that will allow safe ingress and egress including adequate line of sight;
5. Have the property owner's signed permission.

(AMENDED PER ORD. 1425; 11/98)



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**36.000 MANUFACTURED HOMES**

**36.010 PURPOSE**

The purpose of the manufactured homes provision is to establish criteria for the placement of manufactured home units on individual lots and in manufactured home parks within the City of West Linn.

**36.020 MANUFACTURED HOMES STANDARDS**

Manufactured homes shall be subject to the following requirements in all of the zoning districts in which they are allowed.

- A. The unit shall satisfy the requirements for a manufactured home as defined in Section 02.030 of the Code.
- B. The unit shall be attached to a permanent foundation for which a building permit has been obtained.
- C. The unit shall have a roof with a minimum pitch of three feet in height for each 12 feet in width with a minimum 6-inch projection. (ORD. 1298)
- D. The unit shall have eaves.
- E. The unit, if built subsequent to 1975, shall carry a state insignia indicating compliance with the "Manufactured Housing Construction and Safety Standards Code." Units built prior to 1976 shall carry the State insignia for such units reflecting compliance with applicable State standards.
- F. The unit shall be multi-sectioned (double wide or wider) and have a minimum floor area of 1000 square feet and be designed for occupancy by one family. (ORD. 1308)
- G. The wheels, tongue and traveling lights of the unit shall be removed upon installation of the unit. (ORD. 1308)
- H. Any extension or attachment to the unit which is not part of the original factory manufactured home, including space intended for storage purposes, will require a building permit. (ORD. 1298)

- I. Exterior siding and roofing shall be similar in color, material and appearance to that used on surrounding dwellings within 300 feet of the lot. (ORD. 1308)
- J. The unit shall not have bare metal siding or roofing. (ORD. 1308)
- K. Off-street parking shall be provided as required by Section 46.080(7). Garages' or carports' exterior materials must match the residential unit. (ORD. 1308)
- L. The unit shall not be sited on a lot adjacent to any structure listed as a Historic Landmark or adjacent to a Historic District.
- M. The exterior thermal envelope shall meet performance standards equivalent to those required for single-family dwellings under the State Building Code. (ORD. 1308)

**36.030**

**MANUFACTURED HOME PARKS STANDARDS**

- A. Manufactured home parks are allowed under prescribing conditions in the R-5 and R-4.5 zoning districts. (ORD. 1291)
- B. Manufactured home parks are subject to the provisions of Chapter 55, Design Review.
- C. In addition to the standards of the zoning district in which the project is located and other standards of this Code, a manufactured home park proposal shall meet the following:
  - 1. Minimum area. A minimum of two acres shall be required for manufactured home parks. Land area less than two acres may be added to an approved manufactured home park when such land area is developed as a continuation of the approved manufactured home park. Continuous development shall include integrated vehicle and pedestrian circulation.
  - 2. Density. The density of units in a manufactured home park shall be subject to the density requirements of the zoning district.



3. Space coverage. The maximum lot coverage per manufactured home space shall be 60 percent. The manufactured home space shall be exclusive of space provided for the common use of tenants, such as roadway, structures, guest parking, walkways, and areas for recreation purposes.
4. Separations and setbacks. Building separations and setbacks from the park boundary for manufactured homes, accessory structures, and buildings shall conform to the following:
  - a. A manufactured home shall not be located closer than 15 feet to any other manufactured home, or closer than 10 feet to a building.
  - b. All structures shall be set back a minimum of 20 feet from all park boundaries. Side and rear lines of a manufactured home space shall be determined with relation to a park street and the same as side and rear lot lines are determined with relation to a public street as provided in a zoning code.
  - c. Accessory structures shall meet the standards of Chapter 34.
  - d. Awnings and carports may be attached to the manufactured home and extend to within two feet of the manufactured home space line. A double carport or garage may extend across the space line to serve two adjacent manufactured homes.
  - e. Manufactured homes shall be set back a minimum distance of eight feet from any adjacent sidewalk.
5. Streets.
  - a. Park streets shall be a minimum of 24 feet in width, curb to curb, provided that if parking is to be allowed on either side of the street, the minimum width shall be



increased by eight feet for each side of the street on which parking is to be allowed. Parking shall be parallel. The point of access to the street shall be at least 32 feet in width.

- b. Streets shall be paved with cement or asphaltic concrete, and designed and constructed to adequately support traffic loads and provide adequate drainage, all as approved by the City Engineer.
  - c. Each manufactured home space within the park shall have direct access to a park street or to a public residential street. The driveway shall be an unobstructed area, not less than 10 feet in width, and shall be constructed of concrete or asphaltic concrete and well drained, and all as approved by the City Engineer.
  - d. There shall be a minimum of two off-street parking spaces provided for each manufactured home space.
6. Storm drainage. All spaces shall be provided with adequate storm drainage and connected to the storm drainage system. Where a public street is to be dedicated or improved by the applicant, such drainage systems shall be design and constructed according to City code standards and specifications.
7. Sewage disposal. All spaces shall be served by the sanitary sewer system of the City. Such sewer systems shall be designed and constructed according to City code standards and specifications.
8. Water supply. All spaces shall be served by the water system of the City. Such water supply systems shall be designed and constructed according to City code standards and specifications.

9. Utilities. All manufactured home lots and spaces shall be provided with storm drainage, sanitary sewer, electricity, telephone, and portable water utility services with easements dedicated where necessary to provide such services. All such utilities shall be located underground.

(AMENDED PER ORD. 1308; 11/91)



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**37.000 HOME OCCUPATIONS**

**37.010 PURPOSE**

The purpose of this section is to provide for home occupations in residential zones as a means of providing convenient employment opportunities and decreasing the dependence on the auto. The standards contained in this chapter are intended to assure that home occupations will be compatible and consistent with the residential uses, and will not have a detrimental effect on neighboring properties. (ORD. 1396)

**37.020 GENERAL STANDARDS**

A. A home occupation shall comply with all the following operating standards:

1. The home occupation shall be a secondary use to the primary use of the house as a residence.
2. In no way shall the appearance of the residential structure or yard be altered, or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character by the use of colors, materials, construction, lighting, show windows, signs, or advertising visible outside the premises to attract customers or clients, other than a sign as permitted per Section 37.020(A)(9). (ORD. 1463)
3. There shall be no outdoor use or storage of material or mechanical equipment that is not part of the residential use. (ORD. 1463)
4. An accessory building which meets the provisions of Chapter 34 may be used for the home occupation.
5. Any parking generated by patrons shall be accommodated on site.
6. Off-street parking areas with three or more spaces shall be screened by a fence constructed per Chapter 44 specifications, topography, vegetation, or a combination of these methods. Screening vegetation must be in place by the time the applicant submits a home occupation application, or be reasonably expected

to provide effective screening within a year and a half of approval of said application. (ORD. 1463)

7. No equipment or process shall be used in a home occupation which creates noise, odor, smoke, fumes, fallout, vibration, heat, glare, or electrical interference resulting detectable to the normal senses off the lot. (ORD. 1463)
8. No more than three employees, other than the residents, shall be engaged in service on the premises at any given time.
9.
  - a. The use of signs shall be limited to one sign not greater than one foot by six inches in area and flush-mounted to the residential dwelling. In the event that the residential dwelling is set back more than 100 feet from the abutting public street, or otherwise obstructed from view due to topography or landscaping, the allowed sign may be located at the driveway access. Freestanding signs shall be mounted on a base equal to, or less than, the width of the sign. The free-standing sign and its base shall not exceed three feet in height. Approval standards in Section 52.200(A)(1) governing sign design apply.
  - b. Signs advertising home occupations in the Historic District or in a designated Historic Landmark per CDC 26 shall be subject to the design standards in 58.090(C)(25)(b).
10. Vehicles associated with the home occupation shall not be left with engines idling, or loaded or unloaded between the hours of 6 p.m. and 7 a.m. Monday through Friday, or between the hours of 6 p.m. to 9 a.m. on Saturday and Sunday. Other noise-generating machinery associated with conducting a home occupation shall also follow these guidelines.

11. The owner of the business must reside in the primary structure on the premises.

B Home occupations shall comply with all the following operating standards:

1. Only one vehicle no larger than a  $\frac{3}{4}$  ton truck may be used by the occupant, directly or indirectly, in connection with a home occupation. An off-street parking space shall be provided for this vehicle.

2. The use creates no more than five total deliveries, employee or customer vehicular trips per day, One vehicle entering the site and exiting the site. (ORD. 1565)

**37.030 SPECIFIC HOME OCCUPATION USES PROHIBITED**

A. Any occupation involving the repetitive purchase and resale, exchange, production, refinement, packaging or handling of firearms, explosives, or any other dangerous weapons or hazardous materials by any person who devotes time or attention to such items as a regular or part-time course of trade or business with the objective of livelihood or principle means of profit.

B. Any home occupation involving the on-site sale or resale of automobiles, trucks, boats, trailers, or other motorized vehicles.  
(ORD. 1463)

**37.040 THE APPLICATION**

A. A home occupation application shall be initiated by the occupant. If the occupant is not the owner of the premises, the signature of the owner is required on the application. (ORD. 1463)

B. The applicant shall pay the requisite fee.

**37.050 PERMITS**

A home occupation permit is non-transferable to any other person or any other property, and shall expire upon discontinuance of the home occupation by the person to whom it is issued. (ORD. 1463)

**37.060 ADMINISTRATION AND APPROVAL STANDARDS**

A. **Home Occupations.**

1. A home occupation is a decision made by the Planning Director in accordance with the provisions of Section 99.060(A), except that no notice shall be required. (ORD. 1463) (ORD. 1565)
2. The Planning Director shall approve, approve with conditions, or deny an application for a home occupation in accordance with the standards set forth in Sections 37.020(A) and 37.020(B) for home occupations. (ORD. 1565)
3. The Director's decision may be appealed by the applicant to the City Council as provided in Section 99.240(A). (ORD. 1474) (ORD. 1565)

**37.070 APPROVAL AND STRICT COMPLIANCE IS A REQUISITE FOR A BUSINESS LICENSE**

No business license will be issued for a home occupation until the home occupation application is approved and the applicant certifies that the home occupation will be operated in strict compliance with the provisions of this chapter and the conditions of approval.

**37.080 REVOCATION**

The Director may revoke a home occupation permit if the criteria of Section 37.020(A or (B), respectively, are violated. (ORD. 1463) (ORD. 1565)

(AMENDED PER ORD. 1474; 9/01. ORD. 1547; 2/07 ORD 1565; 4/08)

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**38.000 ADDITIONAL YARD AREA REQUIRED; EXCEPTIONS TO YARD REQUIREMENTS; STORAGE IN YARDS; PROJECTIONS INTO YARDS**

**38.020 NO YARD REQUIRED; STRUCTURE NOT ON PROPERTY LINE**

In zones where a side yard or a rear yard setback is not required, a structure which is not to be built on the property line, shall be set back from the property line by at least three feet.

**38.030 SETBACK FROM STREET CENTERLINE REQUIRED**

- A. To assure improved light, air, and sight distance and to protect the public health, safety and welfare, a setback in addition to the yard requirements of the zone may be required where the right-of-way is inadequate. A determination shall be made based on the street standards contained in Section 99.030(B).
- B. The minimum yard requirement shall be increased to provide for street widening in the event a yard abuts a street having a right-of-way width less than required by its functional classification on the City's Comprehensive Plan Map, and in such case the setback shall be not less than the setback required by the zone plus one-half of the projected road width as required under Section 93.030(B) of this Code; however,
- C. The minimum distance from the wall of any structure to the centerline of an abutting street shall not be less than 25 feet plus the yard required by the zone. This provision shall not apply to right-of-ways of 50 feet or greater in width.

**38.040 EXCEPTIONS TO YARD REQUIREMENTS**

- A. If there are dwellings on both abutting lots with front yard depths less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.
- B. If there are garages on both abutting lots with front yard depths less

than the required depth for the zone, the depth of the front yard for the garage for the intervening lot need not exceed the average depth of the front yards of the abutting lots. (ORD. 1276)

- C. If there is a dwelling on one abutting lot with a front yard of less depth than the required depth for the zone, the front yard for the lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth.
- D. If there is a garage on one abutting lot with a front yard of less depth than the required depth for the zone, the front yard for the garage for the lot need not exceed a depth one-half between the depth of the abutting lot and the required front yard depth. (ORD. 1276)

**38.050 STORAGE IN FRONT YARD**

Boats, trailers, campers, camper bodies, house trailers, recreation vehicles or commercial vehicles in excess of three quarter ton capacity shall not be stored in a required front yard in a residential zone if the location creates an obstruction to the vision of passing motorists which constitutes a potential traffic hazard.

**38.060 PROJECTIONS INTO REQUIRED YARDS**

- A. An open deck may extend into an existing utility easement, provided a minimum vertical clearance of 12 feet is maintained between the lowest point of the deck and the ground, and that no posts are installed within the easement. No other structures shall be allowed.
- B. Cornices, eaves, belt courses, sills, canopies, or similar architectural features may extend or project into a required yard not more than 36 inches provided the width of such side yard is not reduced to less than three feet. Projections into the side yard may not include living space such as bay windows or overhanging breakfast nooks, etc. (ORD. 1291)
- C. Projections that include living space such as bay windows or overhanging breakfast nooks, etc. may extend into the front or rear

yard setbacks but no more than two feet. The footprint or foundation of the house may not encroach into the front or rear setback area.

- D. Fireplace chimneys may project into a required front, side or rear yard not more than three feet, provided the width of such side yard is not reduced to less than three feet.
- E. Uncovered open porches, decks, or balconies, not more than 30 inches in height above natural grade and not covered by a roof or canopy, may extend or project into a required front or rear yard to utility easements or five feet of the property line, whichever is more. The uncovered deck, porch or balcony may go into sideyard setback leaving at least three feet to the property line. No encroachment upon utility easement is allowed. These provisions do not apply in the Willamette Historic District. (ORD. 1308)
- F. Front and rear porches, covered porches, unroofed landings and stairs (over 30 inches in height) may encroach into the front or rear yard setback up to five feet. Homes on corner lots may have a front porch that wraps around to the side street side. The porch on the side street may also encroach five feet into the required street side setback area. Enclosed porches are not permitted to encroach. The roofline of the house may be extended to cover the porch but no living space shall be allowed inside the front yard setback (i.e, dormers). The Planning Director shall determine compliance with this section as provided by Section 99.060(A)(3). These provisions do not apply in the Willamette Historic District. (ORD. 1401)

(AMENDED PER ORD. 1401; 5/97)



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**40.000 BUILDING HEIGHT LIMITATIONS, EXCEPTIONS**

**40.010 PROJECTIONS NOT USED FOR HUMAN HABITATION**

Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flag poles, and other similar objects not used for human occupancy, are not subject to the building height limitations of this Code.

**40.020 CHURCH OR GOVERNMENT BUILDINGS**

The height of a church or governmental building may be built to a maximum height of 50 feet provided:

- A. The total floor area of the building does not exceed one and one half times the area of the site;
- B. The yard dimensions in each case are equal to at least two-thirds of the building height of the principal structure; and
- C. The approval of this exception is a part of the approval of the conditional use allowed under Chapter 60.



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**41.000 STRUCTURES ON STEEP LOTS, EXCEPTIONS**

**41.010 FRONT YARD SETBACK EXCEPTION (ORD. 1276)**

If the average slope of a building site is 25 percent or greater, as measured along the planes of the proposed structure, the minimum front yard setback for the garage shall be 3 feet. All structures other than the garage shall meet the setback requirement of the underlying zone, or as otherwise specified in this Code.

When a garage is situated less than 20 feet from the front property line or less than 15 feet from a side property line facing a street, the following siting conditions shall apply:

- A. Where lot width allows, the garage shall be set parallel to the street (i.e., the garage doors shall be perpendicularly oriented to the street), and at least two off-street parking spaces shall be provided as specified in Chapter 46 (i.e., paved).
- B. If the lot width prohibits the parallel siting required above, the garage may be sited perpendicular to the street (i.e., the garage door or doors facing directly onto the street) provided: in addition to the sheltered parking spaces, two off-street parking spaces are provided on-site. (ORD. 1226)

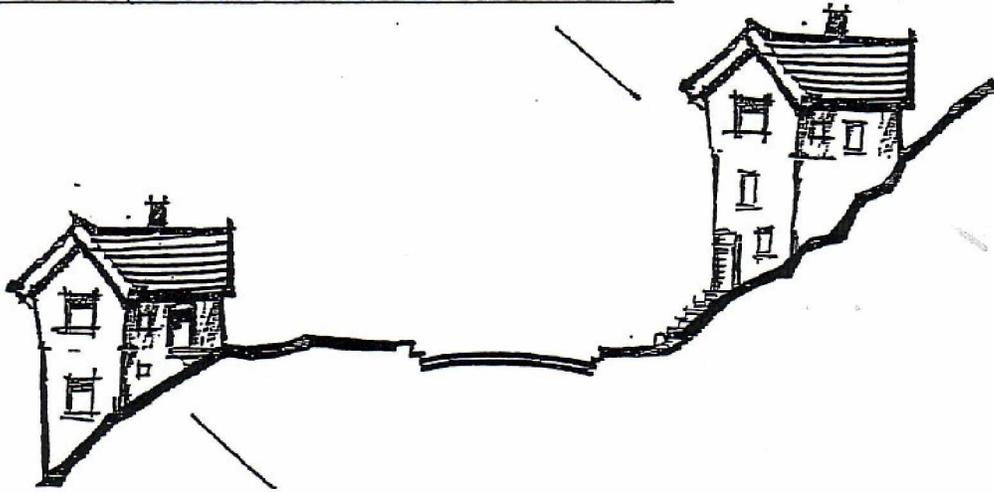
**41.020 HEIGHT EXCEPTIONS**

- A. If the highest grade of a building site which fronts on the downslope side of the street is greater than 10 feet above the lowest grade as measured along the planes of the proposed structure, the total building height may not exceed 45 feet as measured from the lowest grade at a point five feet downhill from the rear of the building, provided the building height does not project more than 24 feet above the average grade of the street.  
In the R-15, R-20, and R-40 zones the 45-foot height may be increased to 50 feet. (ORD. 1308) (ORD. 1538)

- B. If the highest grade of a building site which fronts on the upslope side of the street is greater than 10 feet above the lowest grade, as measured along the

planes of the proposed structure, the total building height shall not exceed 45 feet. In the R-15, R-20, and R-40 zones the 45-foot height may be increased to 50 feet. (ORD. 1276, ORD. 1538)

***Height of homes on uphill slopes where there is more than a 10 foot difference between the rear and front elevation is measured from point five feet downhill from the front of the house to the peak or dominant ridgeline and shall not exceed 45 feet (50 feet in the R-15, R-20 and R-40 zones). (ORD. 1538)***



***Height of homes on downhill slopes where there is more than a 10 foot difference between the rear and front elevation is measured from point five feet downhill from the rear of the house to the peak or dominant ridgeline and shall not exceed 45 feet (50 feet in the R-15, R-20 and R-40 zones). Front house height cannot be more than 24 feet above average street grade. (ORD. 1538)***

(AMENDED PER ORD. 1308, ORD 1538; 6/06)

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**42.000 CLEAR VISION AREAS**

**42.020 CLEAR VISION AREAS REQUIRED, USES PROHIBITED**

- A. A clear vision area shall be maintained on the corners of all property adjacent to an intersection as provided by Section 42.040 through 42.050.
- B. A clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction (except for an occasional utility pole or tree) exceeding three feet in height, measured from the top of the curb, or where no curb exists, from the street centerline grade, except that trees exceeding this height may be located in this area, provided all branches below eight feet are removed. (ORD. 1192)

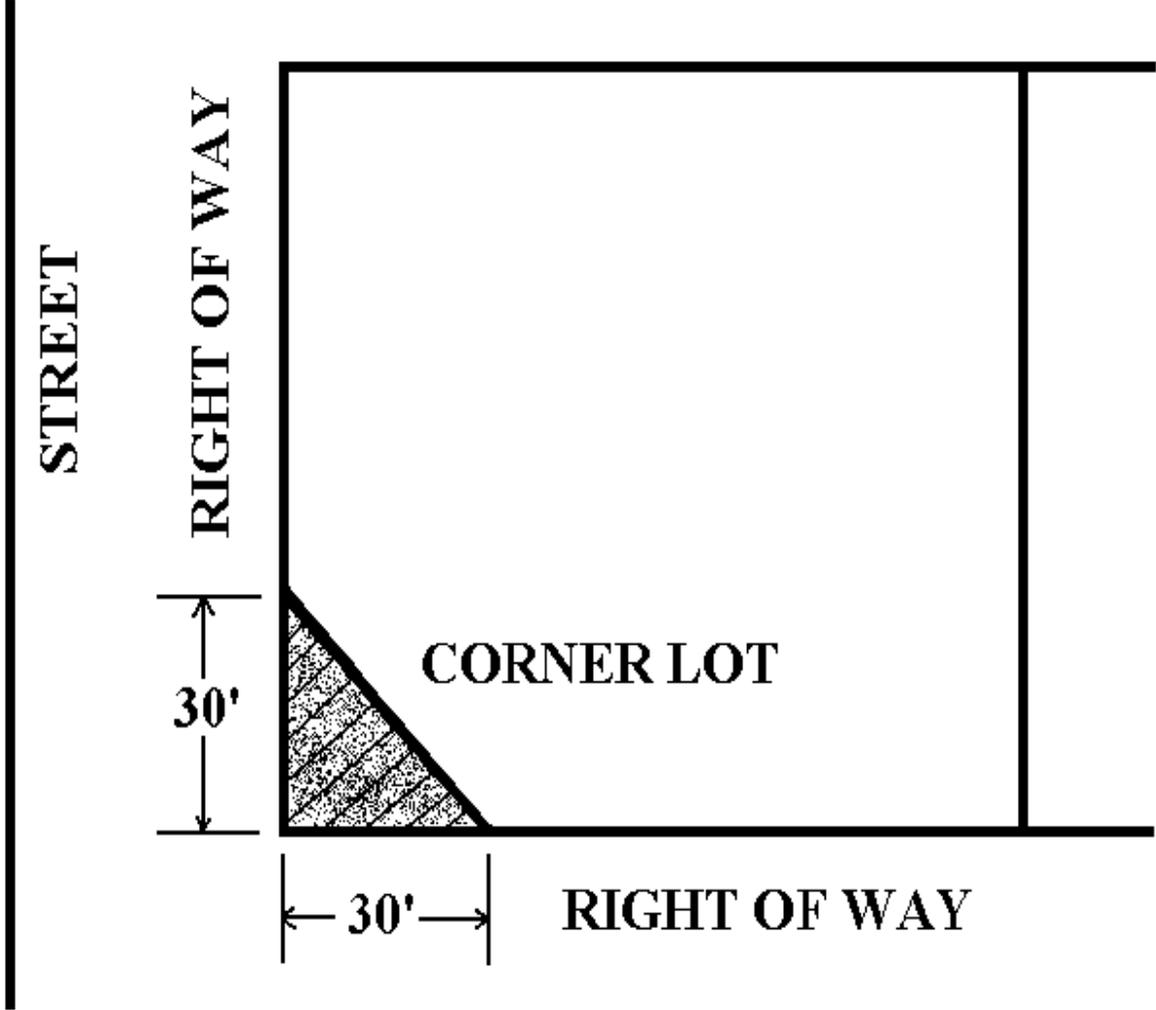
**42.030 EXCEPTIONS**

The following described area in Willamette shall be exempt from the provisions of this chapter. The parcels of land zoned General Commercial which abut Willamette Falls Drive, located between 10th and 16th Streets. Beginning at the intersection of Willamette Falls Drive and 11th Street on 7th Avenue to 16th Street; on 16th Street to 9th Avenue; on 9th Avenue to 14th Street to the Tualatin River; following the Tualatin River and Willamette River to 12th Street; on 12th Street to 4th Avenue; on 4th Avenue to 11th Street; on 11th Street to Willamette Falls Drive. This described area does not include the northerly side of Willamette Falls Drive.

**42.040 COMPUTATION; STREET AND ACCESSWAY 24 FEET OR MORE IN WIDTH**

The clear vision area for all street intersections and street and accessway intersections (accessways having 24 feet or more in width) shall be that triangular area formed by the right-of-way or property lines along such lots and a straight line joining the right-of-way or property line at points which are 30 feet distance from the intersection of the right-of-way line and measured along such lines.

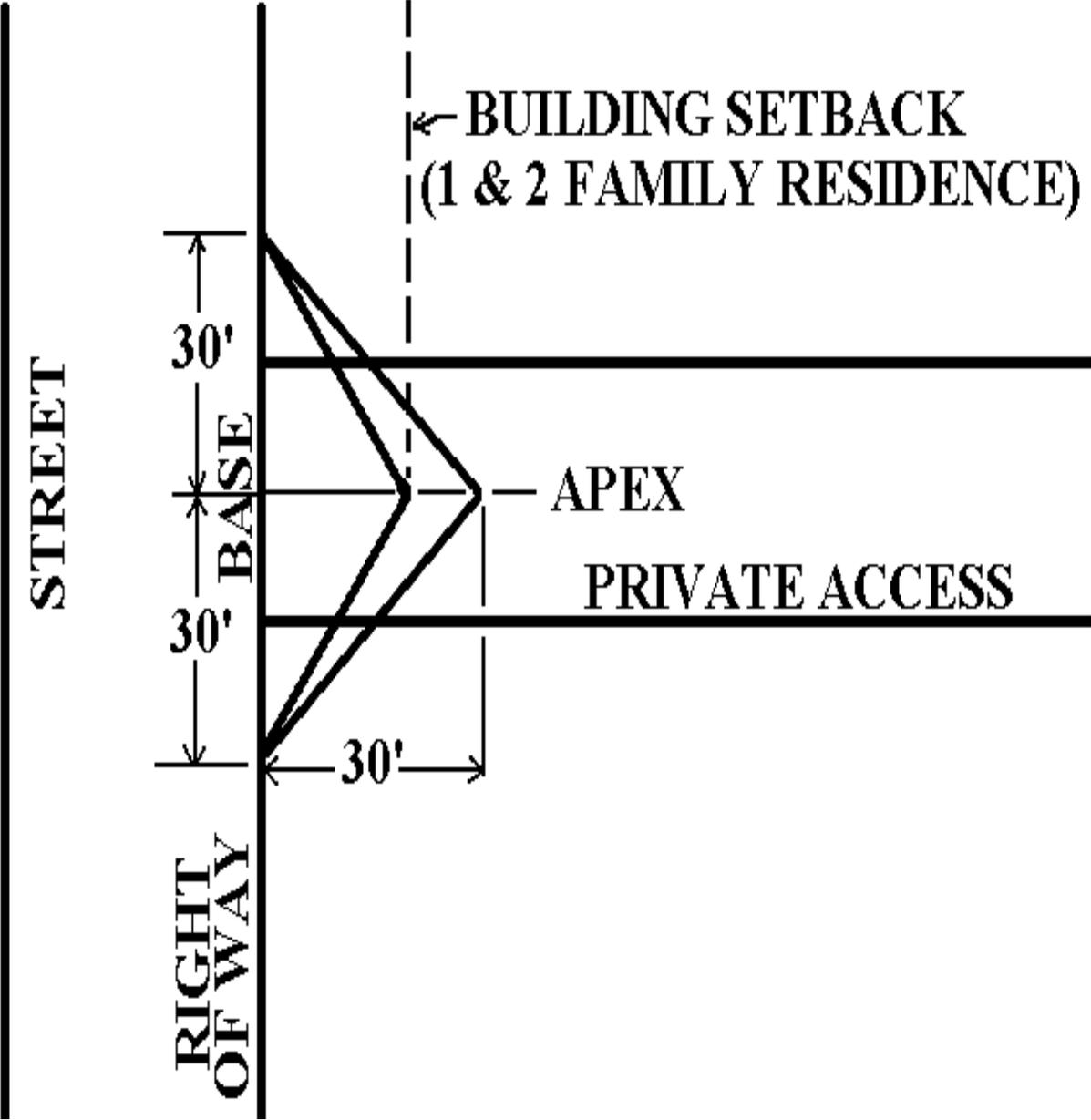
Clear vision area for corner lots and driveways 24 feet or MORE in width.



**42.050 COMPUTATION; ACCESSWAY LESS THAN 24 FEET IN WIDTH**

The clear vision area for street and accessway intersections (accessways having less than 24 feet in width) shall be that triangular area whose base extends 30 feet along the street right-of-way line in both directions from the centerline of the accessway at the front setback line of a single-family and two-family residence, and 30 feet back from the property line on all other types of uses.

Clear vision area for corner lots and driveways less than 24 feet in width.  
(ORD. 1291)



(AMENDED PER ORD. 1291; 11/90)

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**43.000 SINGLE-FAMILY AND DUPLEX RESIDENTIAL SIDE-YARD TRANSITIONS**

**43.010 PURPOSE**

New homes, both infill and in new subdivisions, particularly new homes around the perimeter of the new subdivision, need to be compatible with adjacent existing homes especially when the new house is bigger than the existing one. To this end, transitions shall be required to avoid a monolithic and overbearing sidewall.

**43.020 APPLICABILITY**

These provisions shall apply to all new home construction and remodels in West Linn except in the following areas:

- 1) The Willamette Historic District
- 2) Historic Landmark Structures

**43.030 ADMINISTRATION**

The Planning Director shall apply the standards of this chapter during the administrative review of building permits. No notice is required. In the event that an individual or other party wants to appeal the Planning Director's decision relative to this chapter, they may appeal the decision to City Council within 14 days of the final decision per CDC 99.140 and 99.150. For the purpose of determining the date of the final decision it shall be the Planning Department's stamped approval date on the plans.

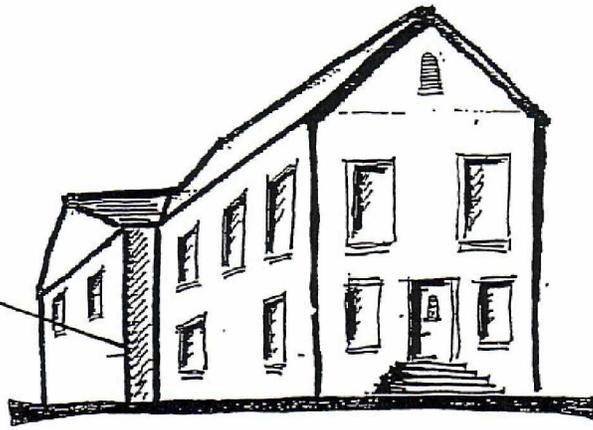
**43.040 GENERAL PROVISIONS**

New house construction or remodels to the side wall of existing homes shall transition to homes on either side by one of two methods (A), (B) or satisfy one of the exemptions (C)(1-6) listed below.

- A. The side elevation of the house must be divided into smaller areas or planes to minimize the appearance of bulk when viewed from the neighboring properties or a side street. When the side elevation of the house is more than 700 square feet in area, the elevation must be divided into distinct planes of 700 square feet or less. For the purpose of this standard, a distinct plane is created when there is a recessed or projecting section of the structure, that projects or recedes at least two feet, for a length of at least six feet.

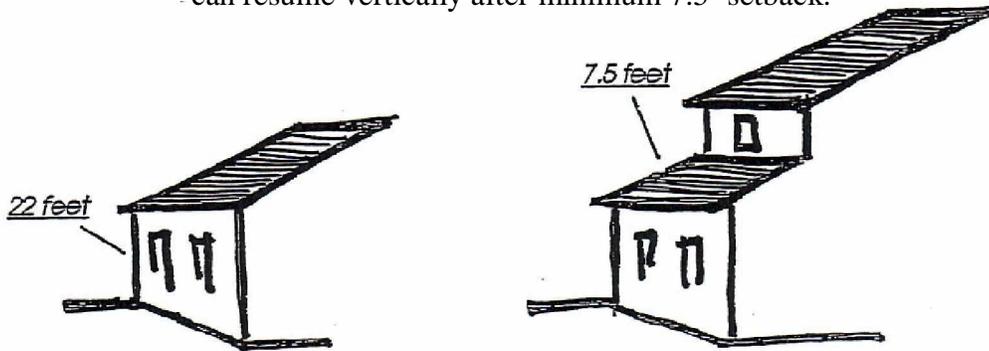
*Side elevation*

*Two-foot pop out*



*700 square foot of vertical space on side elevation (any combination of height X width) requires a two-foot indentation or pop out*

- B. The height of the sidewall shall not exceed 22 feet as measured from grade at the mid-point of the sidewall to the eaves. Sidewall can resume vertically after minimum 7.5' setback.



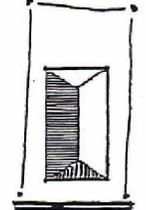
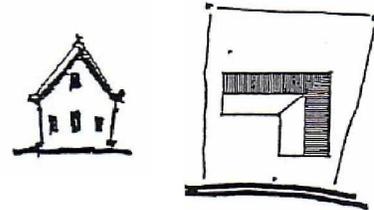
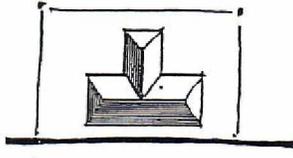
*Sidewalls less than 22 feet high to eaves from average grade are exempt from pop-out/indentation requirement. Sidewall can resume vertically if set back 7.5 feet.*

C. Exemptions

1. Exempt the side of homes that are built 20 feet or more from the side lot line.
2. Exempt homes on steep lots where the peak of the roof would be no more than 24 feet above the average street grade.
3. Exempt homes on narrow lots 50 feet wide or less shall be allowed a minimum side-to-side width of 30 feet for floors above the first floor. The 30-foot wide floor shall be able to accommodate a nine-foot floor-to-ceiling measurement on the second floor.
4. Exempt homes whose side yards are contiguous to an open space, unbuildable area, or non-residentially zoned lands are exempt. (No exemption if adjacent to a park.)
5. Exempt houses that have the gable end facing the side lot line are exempt.

- 6. Replacement in kind of building materials on the sidewall of an existing house shall be exempt. For example, the replacement of siding would be exempt.

**EXEMPTIONS FROM SIDE WALL STANDARD**

<p>Homes on steep lots Where the roof would be No more then 24' above Average street grade</p>	
<p>Homes on lots 50' wide Or less can have second Floor width of at least 30 feet</p>	
<p>Homes next to Open space, etc.</p>	
<p>Homes with the gable end Facing the side lot line</p>	
<p>Homes that are built 20' Or more from the side lot line</p>	

**43.050**

**VARIANCE**

In cases where the sidewall transitions and/or exemptions do not reasonably accommodate a house design, the applicant may apply for a Class II Variance under CDC Chapter 75.



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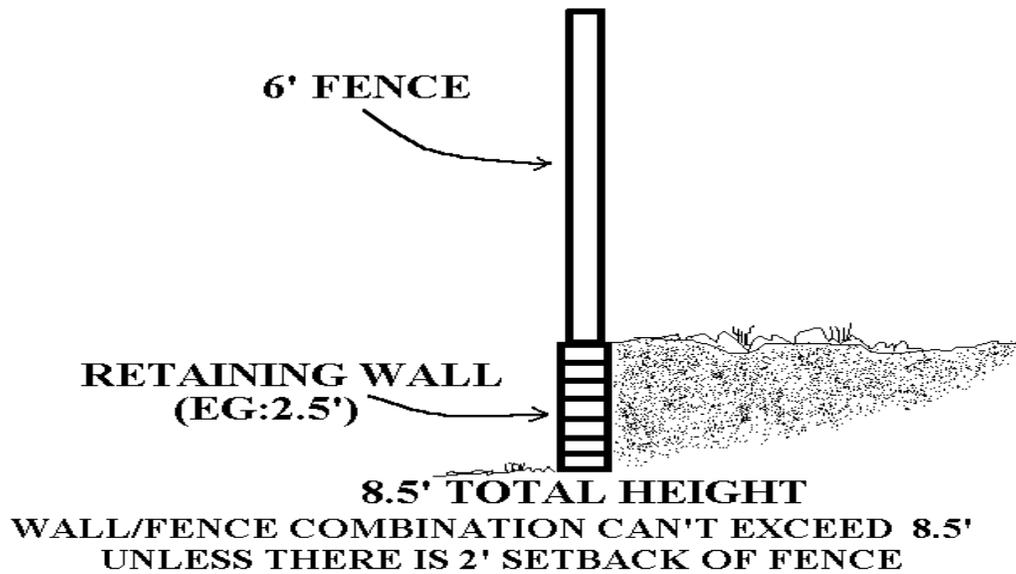
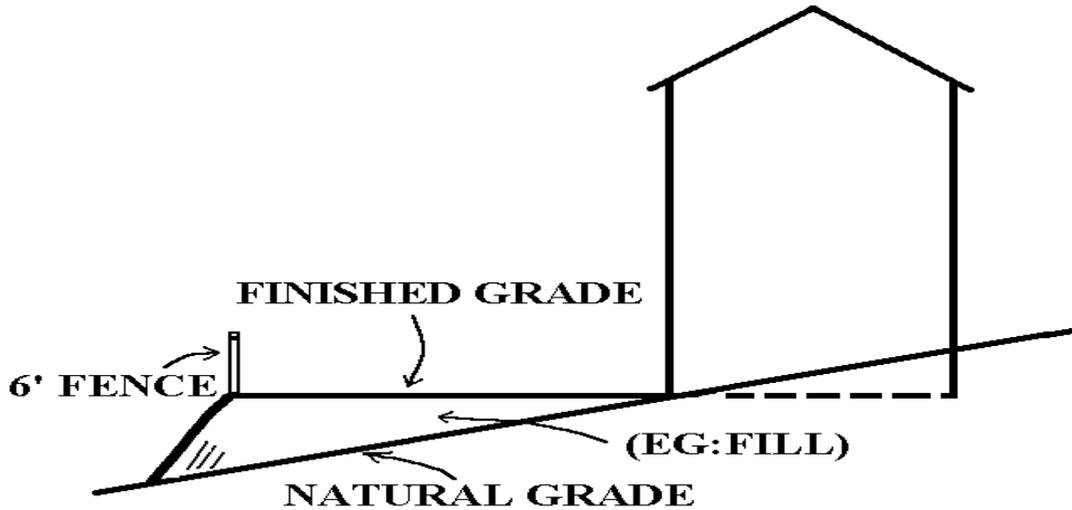


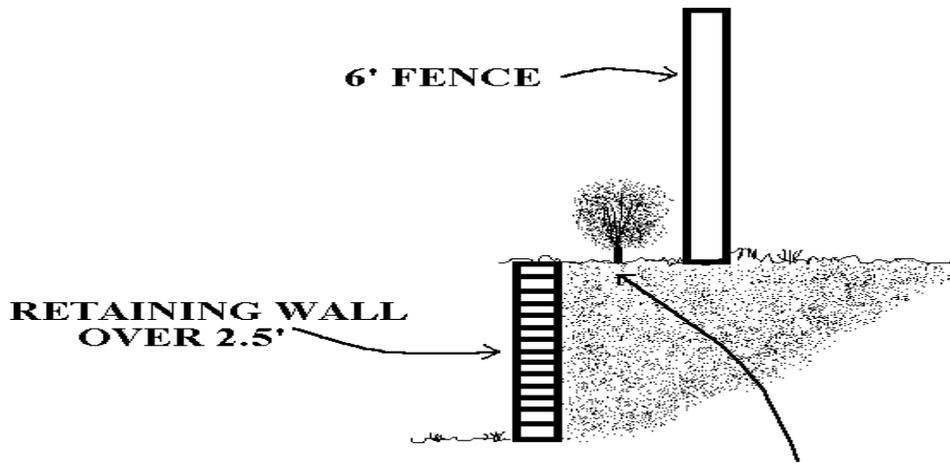
**44.000 FENCES**

**44.020 SIGHT OBSCURING FENCE; SETBACK AND HEIGHT LIMITATIONS**

- A. A sight or non-sight obscuring fence may be located on the property line or in a yard setback area subject to the following:
  - 1. The fence is located within:
    - a. A required front yard area, and it does not exceed three feet; except pillars and driveway entry features subject to the requirements of Chapter 42, Clear Vision Areas, and approval by the Planning Director. (ORD. 1291)
    - b. A required side yard which abuts a street and it is within that portion of the side yard which is also part of the front yard setback area and it does not exceed three feet; (ORD. 1192)
    - c. A required side yard which abuts a street and it is within that portion of the side yard which is not also a portion of the front yard setback area and it does not exceed six feet provided the provisions of Chapter 42 are met;
    - d. A required rear yard which abuts a street and it does not exceed six feet; or,
    - e. A required side yard area which does not abut a street or a rear yard and it does not exceed six feet.
  - B. Fence or wall on a retaining wall. When a fence is built on a retaining wall or an artificial berm, the following standards shall apply:
    - 1. When the retaining wall or artificial berm is 30 inches or less in height from finished grade, the maximum fence or wall height on top of the retaining wall shall be six feet.
    - 2. When the retaining wall or earth berm is greater than 30 inches in height, the combined height of the retaining wall and fence or wall from finished grade shall not exceed 8-1/2 feet.

3. Fences or walls located on top of retaining walls or earth berms in excess of 30 inches above finished grade may exceed the total allowed combined height of 8-1/2 feet provided that the fence or wall is located a minimum of two feet from the retaining wall and the fence or wall height shall not exceed six feet.





**WALL FENCE COMBINATION OVER 8.5' REQUIRES 2' SETBACK OF FENCE. MAXIMUM FENCE HEIGHT IS ALWAYS 6'**

(ORD. 1401)

**44.030 SCREENING OF OUTDOOR STORAGE**

- A. All service, repair, and storage activities carried on in connection with any commercial, business or industrial activity and not conducted within an enclosed building, shall be screened from view of all adjacent properties and adjacent streets by a sight obscuring fence.
- B. The sight obscuring fence shall be in accordance with provisions of Chapter 44, Clear Vision Areas, and shall be subject to the provisions of Chapter 55, Development Review.

**44.040 LANDSCAPING**

Landscaping which is located on the fence line and which impairs sight vision, shall not be located within the clear vision area as provided in Chapter 42.

**44.050 STANDARDS FOR CONSTRUCTION**

- A. The structural side of the fence shall face the owner's property; and,  
(ORD. 1291)
- B. The sides of the fence abutting adjoining properties and the street shall be maintained.

(AMENDED PER ORD. 1401; 5/97)

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**46.000 OFF-STREET PARKING, LOADING AND RESERVOIR AREAS**

**46.010 PURPOSE**

The purpose of this chapter is to provide standards for the number and arrangement of off-street parking, loading, and reservoir areas. Most of these provisions relate to commercial, office, and industrial uses. Parking lot design has often been criticized for creating large expanses of paved areas, separating the business from the public street. That arrangement makes it less attractive for pedestrians to access these buildings. The challenge is balancing the business community's desire for ample visible parking to attract prospective customers with the community interest of encouraging safe, non-vehicular access, minimizing the visual impact of parking, and creating a more attractive streetscape and urban environment.

Most parking facilities in non-residential developments contain spaces which are infrequently used, available for the few days a year when parking is at a premium. For these spaces, permeable parking surfaces provide a suitable parking surface which can reduce surface runoff and increase water quality, as well as improve the aesthetic appearance of the parking lot. West Linn encourages the use of permeable parking surfaces in appropriate situations. (ORD. 1463)

**46.020 APPLICABILITY AND GENERAL PROVISIONS**

- A. At the time a structure is erected or enlarged, or the use of a structure or parcel of land is changed within any zone, off-street parking spaces, loading areas and reservoir areas shall be provided in accordance with the requirements of this chapter unless other requirements are otherwise established as a part of the development approval process.
- B. The provision and maintenance of off-street parking and loading spaces are the continuing obligation of the property owner.
- C. No building or other permit shall be issued until plans are approved that show the property that is and will remain available for exclusive use as off-street parking and loading space as required by this chapter. The use

of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this chapter.

- D. Required parking spaces and loading areas shall be improved to the standards contained in this chapter and shall be available for use at the time of the final building inspection except as provided in Section 46.150.  
(ORD. 1463)

#### **46.030 SUBMITTAL REQUIREMENTS**

For any application requiring design review approval, which includes parking areas, the applicant shall submit, within the design review package, a plan drawn to scale showing all the elements necessary to indicate that the requirements of Chapter 55 are met and it shall include but not be limited to: (ORD. 1463)

1. The delineation of individual parking and loading spaces and their dimensions;
2. The identification of compact parking spaces;
3. The location of the circulation area necessary to serve spaces;
4. The access point(s) to streets, alleys, and properties to be served;
5. The location of curb cuts;
6. The location and dimensions of all landscaping, including the type and size of plant material to be used, as well as any other landscape material incorporated into the overall plan;
7. The proposed grading and drainage plans and the slope (percentage) of parking lot;
8. Specifications as to signs and bumper guards;
9. Identification of disabled parking spaces;
10. Location of pedestrian walkways and crossings; and,
11. Location of bicycle racks.

#### **46.040 APPROVAL STANDARDS**

Approval shall be based on the standards set forth in this chapter and Chapters 48, Access and Circulation; 52, Signs; and 54, Landscaping. (ORD. 1463)

**46.050 JOINT USE OF A PARKING AREA**

- A. Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation of the proposed uses do not overlap, and a finding can be made that parking can be accommodated for all uses provided that satisfactory legal evidence is presented to the City in the form of deeds, leases, and/or contracts to establish the joint use. The applicant shall agree to pay all reasonable legal costs incurred by the City for review. (Ord. 1547)
- B. If a joint use arrangement is subsequently terminated, the requirements of this chapter will thereafter apply to each use separately.

**46.060 STORAGE IN PARKING AND LOADING AREAS PROHIBITED**

Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons and employees only, and the required parking spaces shall not be used for storage of vehicles or materials or for the parking of trucks connected with the business or use with the exception of small (under one ton) delivery trucks or cars.

**46.070 MAXIMUM DISTANCE ALLOWED BETWEEN PARKING AREA AND USE**

- A. Off-street parking spaces for single- and two-family dwellings shall be located on the same lot with the dwelling.
- B. Off-street parking spaces for uses not listed in "A" above shall be located not farther than 200 feet from an entryway to the building or use they are required to serve, measured in a straight line from the building with the following exceptions:
  - 1. Shared parking areas for commercial uses which require more than 40 parking spaces may provide for the spaces in excess of the required 40 spaces up to a distance of 300 feet from the entryway to the commercial building or use. (Ord. 1547)
  - 2. Industrial and manufacturing uses which require in excess of 40 spaces may locate the required spaces in excess of the 40 spaces up to a distance of 300 feet from the entryway to the building.

(Ord.1547)

3. Employee parking areas for car pools and van pools shall be located closer to the entryway to the building than general employee parking. (ORD. 1547)
4. Stacked or valet parking is allowed if an attendant is present to move vehicles. If stacked parking is used for required parking spaces, the applicant shall ensure that an attendant will always be present when the lot is in operation. The requirements for minimum or maximum spaces and all parking area development standards continue to apply for stacked parking.
5. All disabled parking shall be placed closest to building entrances than all other parking. Appropriate ADA curb cuts and ramps to go from the the parking lot to the ADA accessible entrance shall be provided unless exempted by ADA code. (Ord. 1547)

**46.080**

**COMPUTATION OF REQUIRED PARKING SPACES AND LOADING AREA**

- A. Where several uses occupy a single structure or parcel of land or a combination of uses are included in one business, or a combination of uses in the same or separate buildings share a common parking area as in the case of a shopping center, the total off-street parking spaces and loading area shall be the sum of the requirements of the several uses, computed separately. For example, parking for an auto sales and repair business would be calculated using the "retail-bulky" calculation for the sales area and the "service and repair" calculation for the repair area. In another example, parking for a shopping center with a grocery store, a restaurant, and a medical office would be calculated using the "general retail store" calculation for the grocery store, the "restaurant" calculation for the restaurant, and the "medical/dental clinics" calculation for the medical office. The total number of required parking spaces may be reduced by up to 10 percent to account for cross-patronage (when a customer visits several commercial establishments during one visit to the commercial center) of adjacent businesses or services in a commercial center

with five or more separate commercial establishments. (ORD. 1463)

- B. To calculate building square footage as a basis for determining how many parking spaces are needed, the area measured shall be gross floor area under the roof measured from the faces of the structure, including all habitable floors and excluding only space devoted to covered off-street parking or loading.
- C. Where employees are specified, the employees counted are the persons who work on the premises including proprietors, executives, professional people, production, sales, and distribution employees, during the largest shift.
- D. Fractional space requirements shall be counted as a whole space.
- E. Parking spaces in the public street shall not be eligible as fulfilling any part of the parking requirement except open space/park areas with adjacent street frontage.
- F. When an office or commercial development is proposed which has yet to identify its tenants, the parking requirement shall be based upon the "office" or "general retail" categories, respectively.
- G. As permitted uses are replaced with new permitted uses within an existing commercial or business center, modification of the number of parking spaces relative to the new mix of uses is not required unless other modifications of the site which require design review approval pursuant to Chapter 55 are proposed. (ORD. 1463)

**46.090 MINIMUM OFF-STREET PARKING SPACE REQUIREMENTS**

- A. Residential Parking Space Requirements:
  - 1. Single-family residences (attached or detached). 1 off-street space for each dwelling unit; may or may not be in garage or carport.  
(ORD. 1463)
  - 2. Two-family residences and duplexes. Same as single-family.

3. Multi-family residences:
  - (a) 500 sq. feet or less. 1 space for each unit.
  - (b) 1 bedroom apartment. 1.25 spaces for each unit.  
Stacking one car behind the other is permitted only when the parking spaces are allocated to specific apartments. (ORD. 1463)
  - (c) 2 bedroom apartments. 1.5 space for each dwelling unit.  
Stacking one car behind the other is permitted only when the parking spaces are allocated to specific apartments. (ORD. 1463)
  - (d) 3 (or more) bedroom Apartment. 1.75 spaces for each dwelling unit.  
Stacking one car behind the other Is permitted only when the parking Spaces are allocated to specific apartments. (ORD. 1463)
  - (e) Visitor parking for multi-family residences  
  
and  
This  
space  
abutting  
where on-  
allowed  
  
1 off-street space for every 3 apartment units evenly distributed throughout the complex. These spaces shall be clearly identified signed as visitor spaces only. number may be reduced by 1 for every 18 feet of project public street frontage street parking is  
  
(ORD. 1463) (ORD. 1547)
4. Residential hotel, rooming and boarding houses. 80% of the guest room or suites shall have 1 space each plus 1 space for each 2 employees.
5. Correction institutions. (ORD. 1463) 1 space for each 3 beds or patients, plus 1 space for each 2 employees.
6. Manufactured/mobile home. Same as single family.
7. Adult foster care, residential care facility, assisted living facility. One space for each 3 units plus 1 space for each employee.

(ORD. 1463)

B. Public and Semi-public Buildings/Uses:

1. Hospitals/nursing facilities. One space for each 3 beds + 1 space per 2 employees. (ORD. 1463)
2. Lodge, fraternal and civic assembly (except senior center and community center). Spaces to meet the combination of uses, Section 46.070(A). (ORD. 1408)
3. Library. One space per 400 square feet of reading area, plus one space per two employees.
4. Religious institutions and community meeting rooms. One space for every 4 fixed seats or every 8 feet of bench length or every 28 square feet where no permanent seats or benches are maintained (in main auditorium, sanctuary, or place of worship).
5. Museum, art gallery. One space for each 500 square feet of floor area, plus 1 space for each 2 employees.
6. Primary school, middle school, or equivalent private or parochial school. One space for every employee, plus 1 space for each 1000 square feet of floor area.
7. Senior high, college, or commercial trade school, or equivalent private or parochial school. 0.2 spaces per staff and student. (ORD. 1463)
8. Day care, kindergarten, or pre-school facilities. One space per employee, plus one space for every 300 sq. ft. of floor area.
9. Youth center or community center. One space per 200 sq. ft. of covered floor area and drop-off facilities where required by CDC Section 46.120.
10. Passive parks, open space areas. One space per five acres to one space per acre unless the open space area

street

- is abutting a street with no intervening homes or land uses, and has at least 300 lineal feet of street frontage where on-street parking is allowed. (ORD. 1499)
11. Active parks, playgrounds. Two to five spaces for each acre of active use area other than athletic fields. If the park is abutting the street with no intervening homes or land uses, and has at least 300 lineal feet of street frontage where on-street parking is allowed, on-street parking may reduce the amount of required off-street parking by up to one-half. (ORD. 1499)
12. Athletic field (baseball, soccer, etc.) 40 spaces per athletic field. If the park has at least 300 lineal feet of street frontage where parking is allowed, on-street parking may reduce the amount of required off-street parking by up to one-half. (ORD. 1463)
13. Boat ramp. 40 spaces per launch ramp (50% at 9'X20'; 50% at 10'X40' marked "trailers only").
14. Senior center. One space per 150 sq. ft. and drop-off facility per CDC Section 46.120.
15. Trailhead. Four spaces (includes one handicapped space).
- (a) On-street parking may substitute for the required off-street parking provided it is contained within the roadway frontage of trail land area; and,
- (b) Vehicles must be able to approach and leave the trailhead parking area in both directions of travel without having to use driveways as turnaround areas. (ORD. 1391)

C. Commercial:

1. Restaurants: Eating and drinking establishments
  - (a) Cafe, diner, taverns, bars, lounges, full service, and fast food restaurants. One space for every 100 sq. ft. of gross floor area. Restaurants with drive-thru window and reservoir areas may reduce their parking requirement by 5 spaces.
  - (b) Take out facilities (i.e., delicatessen, coffee and pastry, pizza, chinese food, etc.) with no more than 2 tables and 8 seats, or 12 feet of stand-up counter space, or combination thereof, so that not more than 8 persons could be accommodated at any one time. One space for every 200 sq. ft. of gross floor area. Take-out facilities with drive-thru window and reservoir areas may reduce their parking requirement by 5 spaces.
2. General retail store, except as provided below. One space for every 240 sq. ft. of gross floor area. (ORD. 1463)
3. Retail-bulky (i.e., automobiles, furniture, automotive parts, appliances such as stoves, refrigerators, etc.). One space for every 300 sq. ft. of gross floor area.
4. Service and repair shops. One space for every 500 sq. ft. of gross floor area.
5. Professional offices, banks and savings and loans, and government offices. One space for every 350 sq. ft. of gross area. (ORD. 1463)
6. Medical/dental clinics/day surgery. One space for every 250 sq. ft. of gross floor area. (ORD. 1463)
7. Hotel, motel, tourist court, or bed and breakfast. (ORD. 1291) One space for each guest room (plus parking for convention center, as

appropriate). (ORD. 1463)

8. Convention, Trade, or Banquet Center. One space per 3 persons of the maximum capacity of the convention center.
  9. Laundromat. One space per 2 washing machines.
  10. Tanning salon. One space per tanning booth/bed, plus 1 per employee.
- D. Commercial Recreation:
1. Auditorium, stadium, gymnasium. One space for each 4 seats, or 8 ft. of bench length, or 1 space for each 40 square feet of floor area.
  2. Bowling alley. Five spaces for each alley, plus 1 space for each 2 employees.
  3. Pool hall or billiard hall. One space per table, plus 1 space for each 2 employees.
  4. Dance hall or skating rink. One space for each 50 sq. ft. of gross floor area, plus space for each 2 employees.
  5. Amusement park. One space for each 1,000 sq. ft. of gross area, plus 1 space for each 2 employees.
  6. Go-kart track. One space per kart, plus one space per employee.
  7. Country Club and golf course. Six spaces per golf hole, and 1 space per employee on largest shift.
  8. Executive or 9-hole golf course. Two spaces per golf hole, and space per employee on largest shift.

- |     |  |  |
|-----|--|--|
| 9.  | Theater or movie house.  | One space per four seats, or eight feet of bench length.   |
| 10. | Race track or stadium.   | One space per six seats, or 12 feet of bench length.   |
| 11. | Shooting gallery.  | One space per 500 sq. ft. of floor area, plus one space per two employees.   |
| 12. | Swimming pool.   | One space per 100 sq. ft. of floor area, plus one space per two employees.   |
| 13. | Tennis/racquetball courts.   | One space per court.<br>(ORD. 1463)  |
| 14. | Video arcade.  | One space per 240 sq. ft.<br>(ORD. 1463)   |
| 15. | Miniature golf course.   | Two spaces per golf hole, plus 1 space per employee at largest shift.  |
| 16. | Marina boat dock.  | 1.5 spaces per boat slip, plus 1 per each employee.  |
| 17. | Health club.   | One space per 230 sq. ft. of gross floor area.<br>(ORD. 1463)  |
| E.  | <b><u>Industrial:</u></b>  |  |
| 1.  | Manufacturing use; may include assembly and distribution.                              | One space per employee.<br>(Multi-shift businesses only need to provide for peak shift number of employees on site at one time.) |
| 2.  | Storage or wholesale use including personal storage facilities.                        | One space per employee plus one space/700 sq. ft. of patron serving area.  |
| F.  | <b><u>Maximum parking.</u></b> While it is important to establish minimum standards to |  |

ensure that adequate parking is available, it is equally important to establish maximum parking standards to reduce paved impermeable areas, to reduce visual impact of parking lots, and to encourage alternate modes of transportation. For these reasons, parking spaces (except for single-family and two-family residential uses) shall not exceed the minimum by more than 10 percent except by variance. (ORD. 1463)

- G. Parking reductions. CDC Section 55.100(H)(5) explains reductions of up to 10 percent for development sites next to transit stops and up to 10 percent for commercial development sites adjacent to large multi-family residential sites. (ORD. 1463)
- H. For office, industrial, and public uses where there are more than 20 parking spaces for employees on the site, at least 10 percent of the required employee parking spaces shall be reserved for carpool use before 9 a.m. on weekdays. The spaces will be the closest to the building entrance, except for any disabled parking and those signed for exclusive customer use. The car pool/van pool spaces shall be clearly marked “Reserved - Car pool/Van pool Before 9 a.m.” (ORD. 1425)
- I. Existing developments along transit streets or near transit stops may redevelop up to 10 percent of the existing parking spaces to provide transit oriented facilities, including bus pullouts, bus stops and shelters, park and ride stations, and other similar facilities. (ORD. 1425)

#### **46.100**

#### **PARKING REQUIREMENTS FOR UNLISTED USES**

- A. Upon application and payment of fees, the decision-making authority, as provided by Section 99.060(B), may rule that a use not specifically listed in Section 46.080 is a use similar to a listed use and that the same parking standards shall apply. The ruling on parking requirements shall be based on the requirements of Chapter 99 and findings that:
  - 1. The use is similar to and of the same general type as a listed use;
  - 2. The use has similar intensity, density and off-site impacts as the listed use; and,

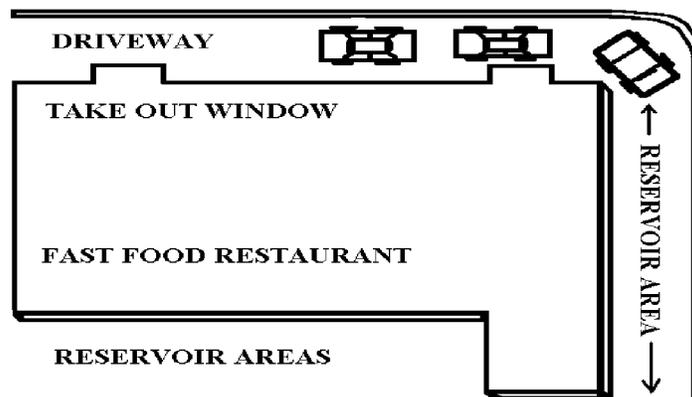
3. The use has similar impacts on the community facilities as the listed use.

B. This section does not authorize the inclusion of a use in a zone where it is not listed, or a use which is specifically listed in another zone or which is of the same general type, and is similar to a use specifically listed in another zone.

**46.110 RESERVOIR AREAS REQUIRED FOR DRIVE-IN USES**

All uses providing drive-in service as defined by this Code shall provide, on the same site, a reservoir space a minimum of 15 feet long for each car, as follows:

Use	Reservoir Requirement
Drive-in banks.	3 spaces/service terminal.
Drive-in restaurants.	10 spaces/service window (measured from the last service window).
Drive-in theaters.	10% of the theater capacity.
Gasoline service stations.	2 spaces (25 feet long each) on each side of fueling island to include two spaces at each end of the island. (ORD. 1401)
Mechanical car washes.	3 spaces/washing unit.
Parking facilities--free flow (no stop required) entry.	1 space/entry driveway.
Automated ticket dispense entry.	2 spaces/entry driveway.
Attendant ticket dispensing.	5 spaces/entry driveway.



**46.120 DRIVEWAYS REQUIRED ON SITE**

Any school or other meeting place which is designed to accommodate more than

25 people at one time, shall provide a 15-foot wide driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers. Depending on functional requirements, the width may be increased with Planning Director approval.

**46.130 OFF-STREET LOADING SPACES**

Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck, shall provide and maintain off-street loading and maneuvering space. The dimensional standard for loading spaces is a minimum of 14'W x 20'L or proportionate to accommodate the size of delivery trucks that typically serve the proposed use as follows:

**---Gross Floor Area---**

<u>Land Use</u>	<u>At Which 1st Berth is Required</u>	<u>At Which 2nd Berth is Required</u>
<u>Industrial:</u>		
Manufacturing	5,000 sq. ft.	40,000 sq. ft.
Warehouse	5,000	40,000
Storage	10,000	100,000
<u>Commercial:</u>		
Wholesale	10,000	40,000
Retail	10,000	20,000
Service establishments	10,000	40,000
Comm. recreational (incl. bowling alley)	10,000	100,000
Restaurants	5,000	25,000
Laundry	10,000	25,000
Office building	10,000	100,000
Hotel	10,000	100,000
<u>Institutional:</u>		
Schools	10,000	100,000
Hospitals	10,000	100,000
Other care facilities	10,000	100,000
<u>Public Buildings:</u>		
Terminals	5,000	40,000
Auditoriums	10,000	100,000
Arenas	10,000	100,000

Funeral homes

10,000

100,000

**46.140****EXEMPTIONS TO PARKING REQUIREMENTS**

To facilitate the design requirements of Chapter 58, properties in the Willamette Falls Drive Commercial District/Overlay Zone, located between 10th and 16th Streets, shall be exempt from the requirements for off-street parking as identified in this chapter. Any off-street parking spaces provided shall be designed and installed per the dimensional standards of this Code. (ORD. 1463)

**46.150****DESIGN AND STANDARDS**

The following standards apply to the design and improvement of areas used for vehicle parking, storage, loading, and circulation:

A. Design Standards:

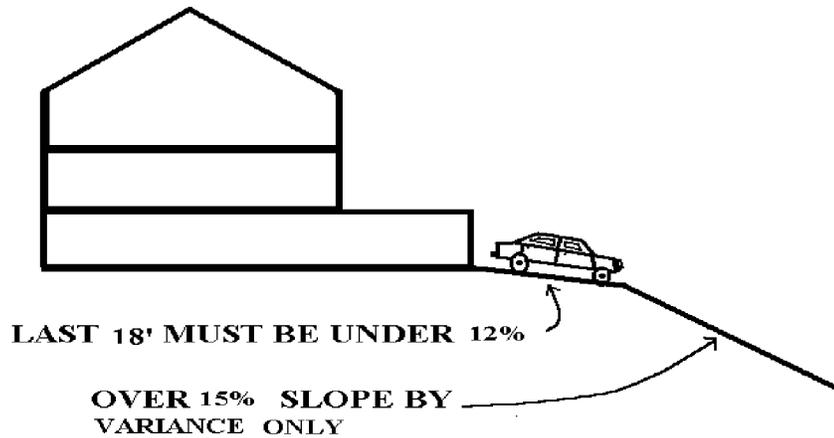
1. "One standard parking space" means a minimum for a parking stall of 8 feet in width and 16 feet in length. These stalls shall be identified as "compact." To accommodate larger cars, 50 percent of the required parking spaces shall have a minimum dimension of 9 feet in width and 18 feet in length (9 X 18). When multi-family parking stalls back onto a main driveway, the stalls shall be 9 X 20. (ORD. 1463)
2. Disabled parking and maneuvering spaces shall be consistent with current federal dimensional standards and Section 46.150(B) and placed nearest to accessible building entryways and ramps.
3. Parking spaces located in the public right-of-way that require backing movements or other maneuvering within a street or right-of-way are permitted with City Engineer approval as is in the case of Willamette Falls Drive parking facilities.
4. Service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrians and vehicular traffic on the site.

5. Each parking and/or loading space shall have clear access, whereby the relocation of other vehicles to utilize the parking space is not required.
6. Except for single and two-family residences, any area intended to be used to meet the off-street parking requirements as contained in this chapter shall have all parking spaces clearly marked using a permanent paint. All interior drives and access aisles shall be clearly marked and signed to show direction of flow and maintain vehicular and pedestrian safety. Permeable parking surface spaces may have an alternative delineation for parking spaces.  
(ORD. 1463)
7. Except for residential parking, and parking for public parks and trailheads, at least 50 percent of all areas used for the parking and/or storage and/or maneuvering of any vehicle, boat and/or trailer shall be improved with asphalt or concrete surfaces according to the same standards required for the construction and acceptance of city streets. The remainder of the areas used for parking may use a permeable paving surface designed to reduce surface runoff. Parking for public parks or trailheads may use a permeable paving surface designed to reduce surface runoff for all parking areas. Where a parking lot contains both paved and unpaved areas, the paved areas shall be located closest to the use which they serve. (ORD. 1463)
8. Off-street parking spaces for single and two-family residences shall be improved with an asphalt or concrete surface, or a permeable parking surface designed to reduce surface runoff, to specifications as approved by the Building Official. Other parking facilities for two- and single-family homes that are to accommodate additional vehicles, boats, recreational vehicles, and trailers, etc. need not be

- paved. All parking for multi-family residential development shall be paved with concrete or asphalt. Driveways shall measure at least 20 feet from the back of sidewalk to garage or the end of the parking pad to accommodate cars and sport utility vehicles without the vehicles blocking the public sidewalk. (ORD. 1463) (ORD. 1547)
9. Access drives from the street to off-street parking or loading areas shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site. The number of access drives shall be limited to the minimum that will allow the property to accommodate and service the anticipated traffic. Access drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives.
  10. Access drives shall have a minimum vision clearance as provided in Chapter 42, Clear Vision Areas.
  11. Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least 4 inches high located 2 feet back from the front of the parking stall. Alternately, landscaped areas or sidewalks adjacent to the parking stalls without wheel stops shall be two feet wider.
  12. Off-street parking and loading areas shall be drained in accordance with plans and specifications approved by the City Engineer. Storm drainage at commercial sites may also have to be collected to treat oils and other residue.
  13. Artificial lighting on all off-street parking facilities shall be designed to deflect all light downward away from surrounding residences and so as not to create a hazard to the public use of any road or street.
  14. Directional arrows and traffic control devices, which are placed on parking lots shall be identified and installed.

15. The maximum driveway grade for single-family housing shall be 15 percent. The 15 percent shall be measured along the centerline of the driveway only. Grades elsewhere along the driveway shall not apply. Variations require approval of a Class II variance by the Planning Commission pursuant to Chapter 75. Regardless, the last 18 feet in front of the garage must maintain a maximum grade of 12 percent as measured along the centerline of the driveway only. Grades elsewhere along the driveway shall not apply.

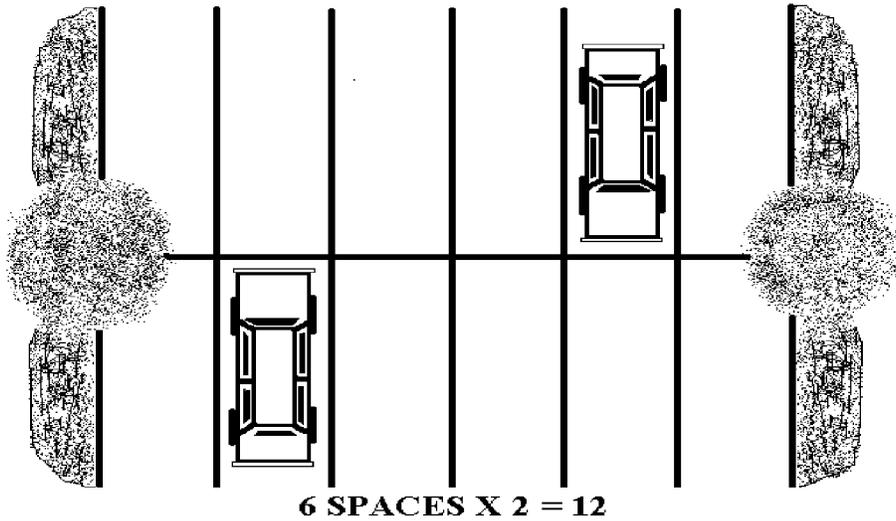
(ORD. 1513)



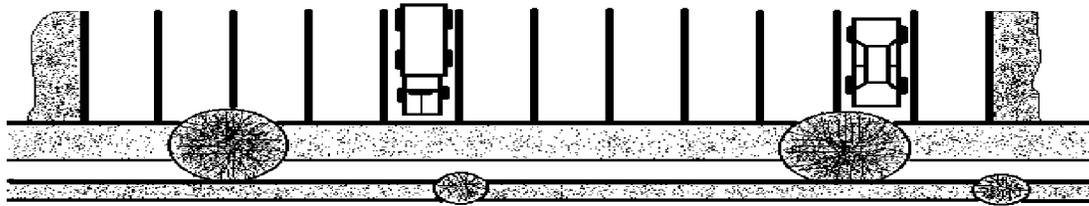
16. Visitor or guest parking must be identified by painted "GUEST" or "VISITOR."
17. The parking area shall have less than a five percent grade. No drainage across adjacent sidewalks or walkways is allowed.
18. Commercial, office, industrial, and public parking lots may not occupy more than 50 percent of the main lot frontage of a development site. The remaining frontage shall comprise buildings or landscaping. If over 50 percent of the lineal frontage comprises parking lot, the landscape strip between the right-of-way and parking lot shall be increased to 15 feet wide and shall include terrain variations (e.g., 1-foot high berm) plus landscaping. The defensible space of the parking lot should not be compromised.

19. Areas of the parking lot improved with asphalt or concrete surfaces shall be designed into areas of 12 or less spaces through the use of defined landscaped area. Groups of 12 or less spaces are defined as: (ORD. 1463)

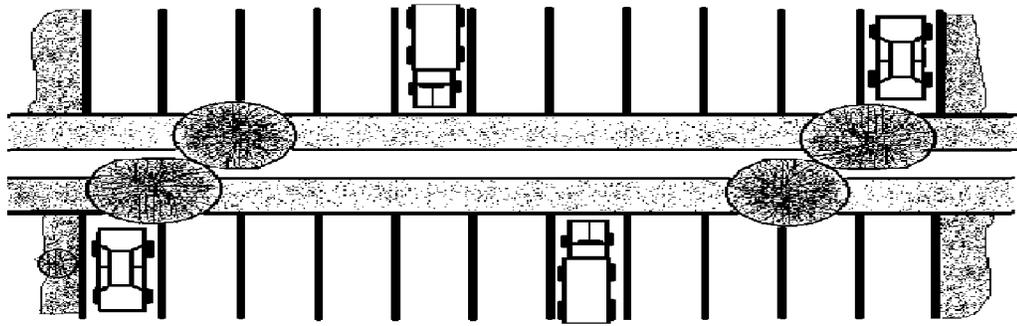
- a. Twelve spaces in a row, provided there are no abutting parking spaces, as in the case when the spaces are abutting the perimeter of the lot; or,
- b. Twelve spaces in a group with six spaces abutting together; or,



- c. Two groups of twelve spaces abutting each other, but separated by a 15-foot wide landscape area including a six-foot wide walkway.



**12 SPACES IN A ROW**

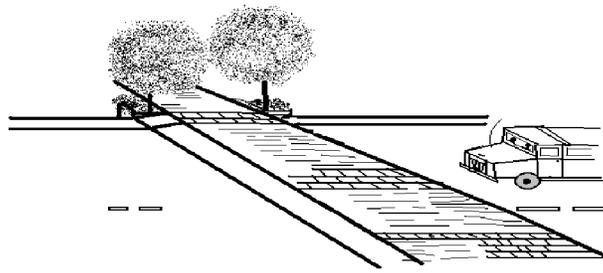


**12 SPACES X2 WITH LANDSCAPING**

- d. Parking areas improved with a permeable parking surface may be designed using the configurations shown in a, b, and c, above except that groups of up to 18 spaces are allowed.

(ORD. 1463)

20. Pedestrian walkways shall be provided in parking areas having 20 or more spaces. Walkways or sidewalks shall be constructed between major buildings/activity areas (an example in multi-family housing: between recreation center, swimming pool, manager's office, park or open space areas, parking lots, etc.) within a development, between adjacent developments and the new development, as feasible, and between major buildings/activity areas within the development and adjacent streets and all adjacent transit stops. Internal parking lot circulation and design should maintain ease of access for pedestrians from streets and transit stops. Walkways shall be constructed using a material that visually contrasts with the parking lot and driveway surface. Walkways shall be further identifiable to pedestrians and motorists by grade separation, walls, curbs, surface texture, (surface texture shall not interfere with safe use of wheelchairs, baby carriages, shopping carts, etc.) and/or landscaping. Walkways shall be six feet wide. The arrangement and layout of the paths shall depend on functional requirements.



**RAISED SIDEWALK/TEXTURED SURFACE  
AUTOMOBILE BECOMES SUBSERVIENT  
TO THE PEDESTRIAN**

21. The parking and circulation patterns are easily comprehended and defined. The patterns shall be clear to minimize traffic hazards and congestion and to facilitate emergency vehicles.
22. The parking spaces shall be close to the related use.
23. Permeable parking spaces shall be designed and built to City standards.

(ORD. 1463)

**B. Accessible Parking Standards for Persons With Disabilities:**

If any parking is provided for the public or visitors, or both, the needs of the people with disabilities shall be based upon the following standards or current applicable federal standards, whichever is more stringent:

1. Minimum number of accessible parking space requirements (see following table):

<b>MINIMUM REQUIRED NUMBER OF TOTAL PARKING SPACES</b>	<b>ACCESSIBLE SPACE</b>
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-999	2% of total spaces
Over 1,000	20 spaces plus 1 for every 100 spaces, or fraction thereof, over 1,000

2. Location of parking spaces. Parking spaces for the individual with a disability that serve a particular building shall be located on the shortest possible accessible circulation route to an accessible entrance to a building. In separate parking structures or lots that do not serve a particular building, parking spaces for the persons with disabilities shall be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility.
3. Accessible parking space and aisle shall meet ADA vertical and horizontal slope standards.
4. Where any differences exist between this section and current federal standards, those standards shall prevail over this Code section.
5. One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide. The van stall shall have an adjacent 8-foot wide aisle. All other accessible stalls shall have a 6-foot wide aisle. Two vehicles may share the same aisle if it is between them.  
The vertical clearance of the van space shall be 96 inches.

C. Landscaping in Parking Areas: Reference Chapter 54, "Landscaping."

D. Bicycle Facilities and Parking:

1. Provisions shall be made for pedestrian and bicycle ways if such facilities are shown on an adopted plan.
2. Bicycle parking facilities shall either be lockable enclosures in which the bicycle is stored, or secure stationary racks which accommodate bicyclist's locks securing the frame and both wheels.  
The bicycle parking shall be no more than 50 feet from the entrance to the building, well lit, observable, and properly signed.
3. Bicycle parking must be provided in the following amounts:  
(See table on the next page.)

<b>LAND USE CATEGORY</b>	<b>MINIMUM REQUIRED BICYCLE PARKING SPACES</b>	<b>MINIMUM COVERED AMOUNT</b>
<u>Residential</u>		
Multi-family Residential - General	1 space per unit	50%
Multi-family Residential - 55 years Physical Disab.		0%
<u>Institutional</u>		
Schools – Elementary	2 spaces per classroom	50%
Schools - Jr Hi or Middle Schools	4 spaces per classroom (ORD. 1463)	50%
Schools - Sr High	2 spaces per classroom (ORD. 1463)	
College	1 space per 4 students	50%
Transit Centers/Park & Ride Lots	5% of auto spaces, or 100% of demand, depending on location/accessibility to bicyclists	100%
Religious Institutions	1 space per 40 seat capacity	25%
Hospitals	1 space per 5 beds	50%
Doctor, Dentist Offices	2, or 0.5 spaces per 1000 gross sq. ft., whichever is greater	25%
Libraries, Museums, Government Offices, etc.	2, or 1.5 spaces per 1000 gross sq. ft., whichever is greater	25%
<u>Commercial</u>		
Retail Sales	0.33 space per 1000 gross sq. ft.	50%
Auto-oriented Services (including 7-11s)	2, or .33 spaces per 1000 gross sq. ft., whichever is greater	10%
Groceries/Supermarkets	0.33 space per 1000 gross sq. ft./bldg.	10%
Office	2, or 0.5 spaces per 1000 gross sq. ft., whichever is greater	10%
Quality Restaurant	1 space per 1000 gross sq. ft.	25%
Drive-in Restaurant	2 spaces per 1000 gross sq. ft.	25%
Shopping Center (by size)	0.33 space per 1000 gross sq. ft./bldg.	50%
Financial Institutions	2, or 0.33 spaces per 1000 gross sq. ft.	25%
Theaters, Auditoriums, etc.	1 space per 30 seats	25%
<u>Industrial</u>		
Industrial Park	2, or 0.5 spaces per 1000 gross sq. ft.	50%
Warehouse	2, or 0.1 spaces per 1000 gross sq. ft.	50%
Manufacturing, etc.	2, or 0.15 spaces per 1000 gross sq. ft.	50%

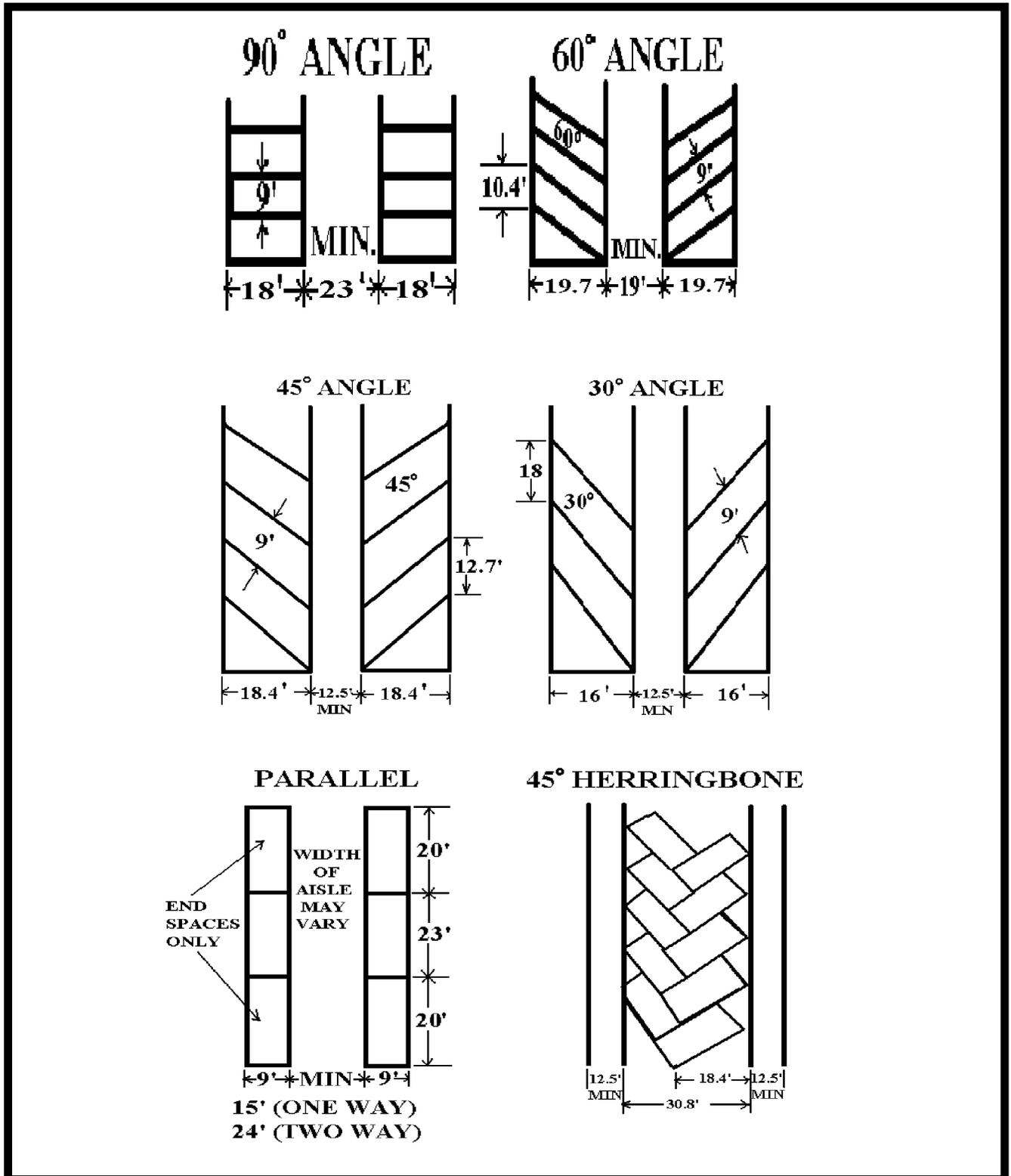
E. Office or industrial developments shall be allowed a 10 percent reduction in the number of required parking spaces when the property owner agrees to a demand management program that includes three or more of the following measures:

1. Designate a transportation coordinator responsible for promoting public transit and ride-sharing among employees.
2. Participate in region-wide ride matching program at the site.
3. Provide free transit passes to employees.
4. Provide showers and lockers for employees who commute by bicycle.
5. Charge employees for monthly parking and provide a transportation allowance to employees equal to the parking charge.
6. Install office technology, floor plans, and tenant regulations which are permanent, which effectively arrange for at least 10 percent of the employees to telecommute, thereby reducing employee automobile traffic by 10 percent.

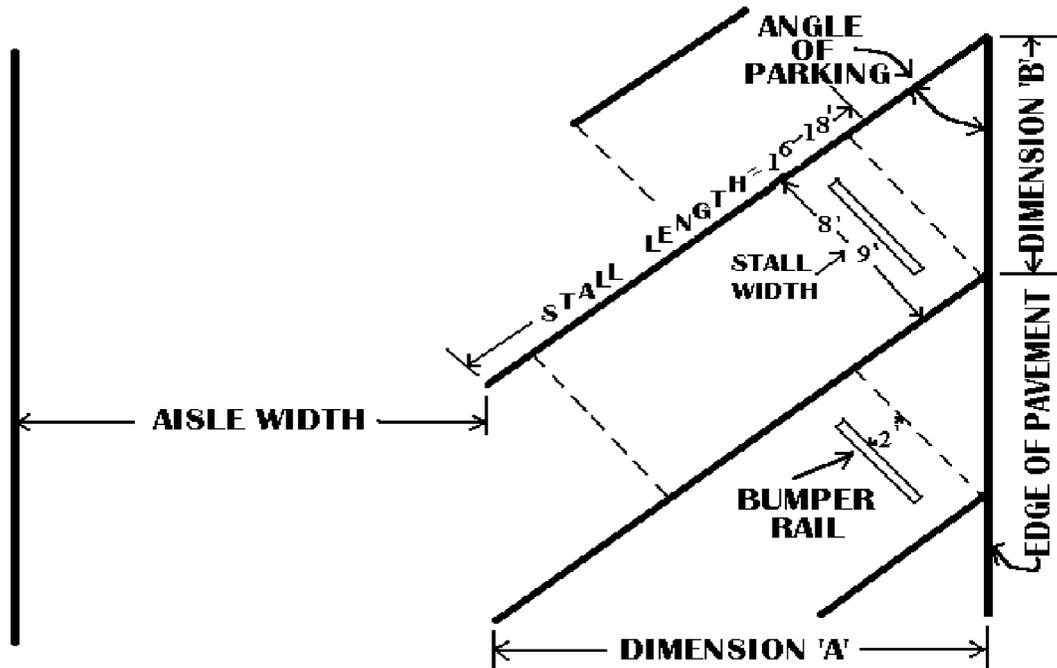
The required demand management measures shall be included as conditions of approval for the proposed project. The property owner or manager shall file an annual affidavit with the City of West Linn stating that ongoing demand management measures required as conditions of approval have not been discontinued. (ORD. 1425)

F. (See Figures 1 and 2 below.)

**Figure 1. MINIMUM STANDARDS FOR PARKING LOT LAYOUT**



**Figure 2. MINIMUM DISTANCE FOR PARKING STALLS**



ANGLE OF PARKING	DIRECTION OF PARKING	AISLE WIDTH		DIMENSION 'A'		DIMENSION 'B'	
		STALL WIDTH		STALL WIDTH		STALL WIDTH	
		9.0'	8.0'	9.0'	8.0'	9.0'	8.0'
30°	DRIVE-IN	12.5'	12.5'	16.8'	13.8'	18.0'	16.0'
45°	DRIVE-IN	12.5'	12.5'	19.1'	17.0'	12.7'	11.3'
60°	DRIVE-IN	19.0'	18.0'	20.1'	17.8'	10.4'	9.2'
60°	BACK- IN	17.0'	17.0'	20.1'	17.8'	10.4'	9.2'
90°	DRIVE-IN	23.0'	23.0'	18.0'	16.0'	9.0'	8.0'
90°	BACK- IN	22.0'	22.0'	18.0'	16.0'	9.0'	8.0'

(AMENDED PER ORD. 1513; 03/14, ORD. 1547 2/07)



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## **48.000 ACCESS, EGRESS AND CIRCULATION**

### **48.010 PURPOSE**

The purpose of this chapter is to ensure that efficient, safe, and well directed vehicular, bicycle, and pedestrian access, circulation, and egress is design into development proposals. Access Management seeks to balance mobility, the need to provide efficient, safe and timely travel with the ability to allow access to individual properties. Proper implementation of access management techniques should guarantee reduced congestion, reduced accident rates, less need for roadway widening, conservation of energy, and reduced air pollution.

(ORD. 1584)

### **48.020 APPLICABILITY AND GENERAL PROVISIONS**

- A. The provisions of this chapter do not apply where the provisions of the Transportation System Plan or Land Division chapter are applicable and set forth differing standards. (ORD. 1584)
- B. All lots shall have access from a public street or from a platted private street approved under the Land Division chapter.
- C. No building or other permit shall be issued until scaled plans are presented to the City and approved by the City as provided by this chapter, and show how the access, egress, and circulation requirements are to be fulfilled. Access to state or county roads may require review, approval, and permits from the appropriate authority.
- D. Should the owner or occupant of a lot or building enlarge or change the use to which the lot or building is put, resulting in increasing any of the requirements of this chapter, it shall be unlawful and a violation of this Code to begin or maintain such altered use until the provisions of this chapter have been met, and, if required, until the appropriate approval authority under Chapter 99 has approved the change.
- E. Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the requirements

as designated in this Code provided that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases, or contracts to establish joint use. Copies of said instrument shall be placed on permanent file with the City Recorder.

- F. Property owners shall not be compelled to access their homes via platted stems of flag lots if other driveways and easements are available and approved by the City Engineer.

#### **48.025 ACCESS CONTROL**

A. Purpose. The following access control standards apply to public, industrial, commercial and residential developments including land divisions. Access shall be managed to maintain an adequate level of service and to maintain the functional classification of roadways as required by the West Linn Transportation System Plan. Major roadways, including arterials and collectors, serve as the primary system for moving people and goods within and through the city. Access management is a primary concern on these roads. Local streets and alleys provide access to individual properties. If vehicular access and circulation are not properly designed, these roadways will be unable to accommodate the needs of development and serve their transportation function. The regulations in this section further the orderly layout and use of land, protect community character, and conserve natural resources by promoting well-designed road and access systems and discouraging the unplanned subdivision of land.

#### **B. Access Control Standards.**

1. Traffic Impact Analysis Requirements. The City or other agency with access jurisdiction may require a traffic study prepared by a qualified professional to determine access, circulation and other transportation requirements. (See also, Section 55.125.A Traffic Impact Analysis.)
2. The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or

other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. Access to and from off-street parking areas shall not permit backing onto a public street.

3. Access Options. When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods (planned access shall be consistent with adopted public works standards and TSP). These methods are “options” to the developer/subdivider.

a) Option 1. Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.

b) Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., “shared driveway”). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.

c) Option 3. Access is from a public street adjacent to the development parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in Subsection 7, below.

4. Subdivisions fronting onto an arterial street. New residential land divisions fronting onto an arterial street shall be required to provide alleys or secondary (local or collector) streets for access to individual lots. When alleys or secondary streets cannot be constructed due to topographic or other physical constraints, access may be provided by consolidating driveways for clusters of two or more lots (e.g., includes flag lots and mid-block lanes).

5. Double-frontage lots. When a lot has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial

street. When a lot has frontage opposite that of the adjacent lots, access shall be provided from the street with the lowest classification.

6. Access spacing: The access spacing standards found in Chapter 8 of the adopted Transportation System Plan (TSP) and shall be applicable to all newly established public street intersections, private drives, and non-traversable medians:

7. Number of access points. For single-family (detached and attached), two-family, and duplex housing types, one street access point is permitted per lot, when alley access cannot otherwise be provided; except that two access points may be permitted corner lots (i.e., no more than one access per street), subject to the access spacing standards in Subsection 7, above. The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with Subsection 8 below, in order to maintain the required access spacing, and minimize the number of access points.

8. Shared Driveways. The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The City shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:

- (a) Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. “Stub” means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent parcel develops. “Developable” means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).

- (b) Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.
- (c) Exception. Shared driveways are not required when existing development patterns or physical constraints (e.g., topography, parcel configuration, and similar conditions) prevent extending the street/driveway in the future.

C. Street connectivity and formation of blocks required. In order to promote efficient vehicular and pedestrian circulation throughout the City, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards:

- 1. Block length and perimeter. The maximum block length shall not exceed 800 feet or 1,800 feet along an arterial.
- 2. Street Standards. Public and private streets shall also conform to Section 092 Required Improvements and in any other applicable Sections of the West Linn Community Development Code and approved TSP.
- 3. Exception. Exceptions to the above standards may be granted when blocks are divided by one or more pathway(s), in conformance with the provisions of 85.200(C), Pedestrian and Bicycle Trails, or cases where extreme topographic (e.g., slope, creek, wetlands, etc.) conditions or compelling functional limitations, preclude implementation, not just inconveniences or design challenges.

**48.030 MINIMUM VEHICULAR REQUIREMENTS FOR RESIDENTIAL USES**

A. Direct individual access from single-family dwellings and duplex lots to an arterial street, as designated in the Transportation element of the Comprehensive Plan, is prohibited for lots created after the effective date of this Code where an alternate access is either available or is expected to be available by imminent development application. Evidence of alternate or future access may include temporary cul-de-sacs, dedications or

stubouts on adjacent parcels, or tentative street layout plans submitted at one time by adjacent property owner/developer or by the owner/developer, or previous owner/developer, of the property in question.

In the event that alternate access is not available as determined by the Planning Director and City Engineer, access may be permitted after review of the following criteria:

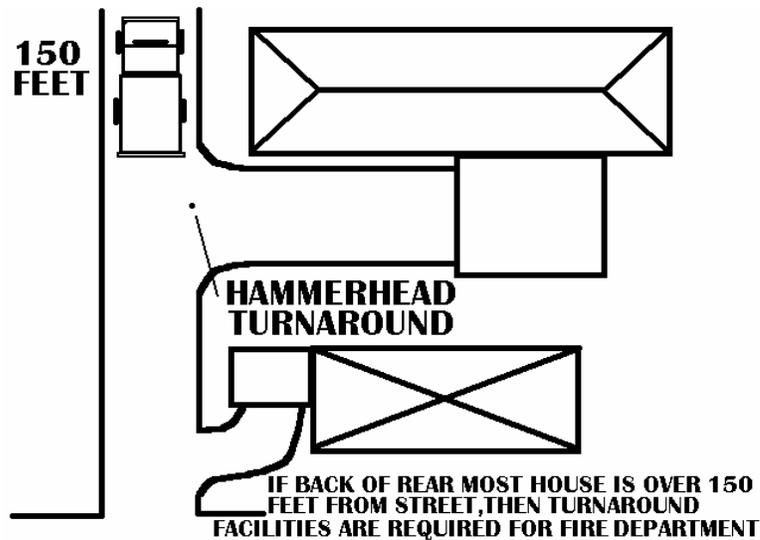
1. Topography.
2. Traffic volume to be generated by development (i.e., trips per day).
3. Traffic volume presently carried by the street to be accessed.
4. Projected traffic volumes.
5. Safety considerations such as line of sight, number of accidents at that location, emergency vehicle access, ability of vehicles to exit the site without backing into traffic.
6. The ability to consolidate access through the use of a joint driveway.
7. Additional review and access permits may be required by state or county agencies.

B. When any portion of any house is less than 150 feet from the adjacent right-of-way, access to the home is as follows:

1. One single-family residential home requires a 12-foot wide paved or all weather surface.
2. Two to four single-family residential homes equals 14-20 foot wide paved or all weather surface. Width shall depend upon adequacy of line of sight and number of homes.
3. Maximum driveway grade shall be 15 percent. The 15% shall be measured along the centerline of the driveway only. Variations require approval of a Class II variance by the Planning Commission pursuant to Chapter 75. Regardless the last 18 feet in front of the garage shall be under 12 percent grade as measured along the centerline of the driveway only. Grades elsewhere along

the driveway shall not apply. (ORD 1513)

4. The driveway shall include a minimum of 20 feet in length between the garage door and the back of sidewalk, or, if no sidewalk is proposed, to the paved portion of the right-of-way.(ORD. 1584)



- C. When any portion of one or more homes is more than 150 feet from the adjacent right-of-way, the provisions of subsection "B" above, shall apply in addition to the following provisions. (ORD. 1408)
  1. A turnaround may be required as prescribed by the Fire Chief.
  2. Minimum vertical clearance for the driveway shall be 13 feet, 6 inches.
  3. A minimum centerline turning radius of 45 feet is required unless waived by the Fire Chief.
  4. There shall be sufficient horizontal clearance on either side of the driveway so that the total horizontal clearance is 20 feet.
- D. Access to five or more single-family homes shall be by a street built to full construction code standards. All streets shall be public. This full street provision may only be waived by variance.
- E. Access and/or service drives for multi-family dwellings shall be fully

improved with hard surface pavement:

1. With a minimum of 24 feet width when accommodating two-way traffic, or,
  2. With a minimum of 15 feet width when accommodating one-way traffic. Horizontal clearance shall be 2-1/2 feet wide on either side of the driveway.
  3. Minimum vertical clearance of 13 feet, 6 inches.
  4. Appropriate turnaround facilities per Fire Chief's standards for emergency vehicles when the drive is over 150 feet long. Fire Department turnaround areas shall not exceed seven percent grade unless waived by the Fire Chief. (ORD. 1408)
  5. The grade shall not exceed 10 percent on average, with a maximum of 15 percent.
  6. A minimum centerline turning radius of 45 feet for the curve.
- F. Where on-site maneuvering and/or access drives are necessary to accommodate required parking, in no case shall said maneuvering and/or access drives be less than that required in Chapter 46 and 48 of this Code.
- G. The number of driveways or curb cuts shall be minimized on arterials or collectors. Consolidation or joint use of existing driveways shall be required when feasible.
- H. In order to facilitate through traffic and improve neighborhood connections, it may be necessary to construct a public street through a multi-family site.
- I. Gated accessways to residential development other than a single-family home is prohibited. (ORD. 1463)

**48.040 MINIMUM VEHICLE REQUIREMENTS FOR NON-RESIDENTIAL USES**

Access, egress, and circulation system for all non-residential uses shall not be less than the following:

- A. Service drives for non-residential uses shall be fully improved with hard

surface pavement:

1. With a minimum of 24 feet width when accommodating two-way traffic; or,
2. With a minimum of 15 feet width when accommodating one-way traffic. Horizontal clearance shall be 2-1/2 feet wide on either side of the driveway.
3. Meet the requirements of Section 48.030(E), "3" through "6".
4. Pickup window driveways may be 12 feet wide unless the Fire Chief determines additional width is required. (ORD. 1408)

B. All non-residential uses shall be served by one or more service drives as determined necessary to provide convenient and safe access to the property and designed according to Section 48.030(A). In no case shall the design of the service drive or drives require or facilitate the backward movement or other maneuvering of a vehicle with a street, other than an alley.

C. All on-site maneuvering and/or access drives shall be maintained pursuant to Section 46.130 of this Code.

D. Gated accessways to non-residential uses are prohibited unless required for public safety or security. (ORD. 1463)

E.

**48.050 ONE WAY VEHICULAR ACCESS POINTS**

Where a proposed parking facility plan indicates only one-way traffic flow on the site, it shall be accommodated by a specific driveway serving the facility, and the entrance drive shall be situated closest to oncoming traffic, and the exit drive shall be situated farthest from oncoming traffic.

**48.060 WIDTH AND LOCATION OF CURB CUTS AND ACCESS SEPARATION REQUIREMENTS**

A. Minimum curb cut width shall be 16 feet.

B. Maximum curb cut width shall be 36 feet, except along Highway 43 in which case the maximum curb cut shall be 40 feet. For emergency service

providers, including fire stations, the maximum shall be 50 feet.  
(ORD. 1270; ORD. 1584)

- C. No curb cuts shall be allowed any closer to an intersecting street right-of-way line than the following:
  - 1. On an arterial when intersected by another arterial, 150 feet.
  - 2. On an arterial when intersected by a collector, 100 feet.
  - 3. On an arterial when intersected by a local street, 100 feet.
  - 4. On a collector when intersecting an arterial street, 100 feet.
  - 5. On a collector when intersected by another collector or local street, 35 feet.
  - 6. On a local street when intersecting any other street, 35 feet.
- D. There shall be a minimum distance between any two adjacent curb cuts on the same side of a public street except for one-way entrance and exits, as follows:
  - 1. On an arterial street, 150 feet.
  - 2. On a collector street, 75 feet.
  - 3. Between any two curb cuts on the same lot on a local street, 30 feet.
- E. A rolled curb may be installed in lieu of curb cuts and access separation requirements.
- F. Curb cuts shall be kept to the minimum, particularly Highway 43. Consolidation of driveways is preferred. The standard on Highway 43 is one curb cut per business if consolidation of driveways is not possible.
- G. Adequate line of sight pursuant to engineering standards should be afforded at each driveway or accessway.

**48.070 PLANNING DIRECTOR'S AUTHORITY TO RESTRICT ACCESS -  
APPEAL PROVISIONS**

- A. In order to provide for increased traffic movement in congested streets and eliminate turning movement problems, the Planning Director and City Engineer, or his designee, may restrict the location of driveways on said

street and require the location of driveways on adjacent streets upon the finding that the proposed access would:

1. Provide inadequate access for emergency vehicles; or,
2. Cause or increase hazardous conditions to exist which would constitute a clear and present danger to the public health safety and general welfare.

B. A decision by the Planning Director may be appealed to the Planning Commission as provided by Section 99.240(B).

**48.080**

**BICYCLE AND PEDESTRIAN CIRCULATION**

- A. Within all multi-family developments (except two-family/duplex dwellings), each residential dwelling shall be connected to vehicular parking stalls, common open space, and recreation facilities by a pedestrian pathway system having a minimum width of six feet and constructed of an all-weather material. The pathway material shall be of a different color or composition from the driveway. (Bicycle routes adjacent to the travel lanes do not have to be of different color or composition.)
- B. Bicycle and pedestrian ways within a subdivision shall be constructed according to the provisions in Section 85.200(A)(3)(e) of this Code.
- C. Bicycle and pedestrian ways at commercial or industrial sites shall be provided according to provisions of Chapter 55, Design Review.

(AMENDED PER ORD. 1463; 10/00, ORD. 1584; 12/08)



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**52.000 SIGNS**

**52.010 PURPOSE**

The purpose of this chapter is to maintain or improve the aesthetic quality of the City's residential and business environment; to prevent the proliferation of signs and sign clutter; to minimize adverse visual safety factors to travelers on public roadways and private areas open to public vehicular travel; to provide for safe construction, location, erection and maintenance of signs; and to improve the effectiveness of signs in identifying and advertising businesses, all by classifying and regulating signs. (ORD. 1276)

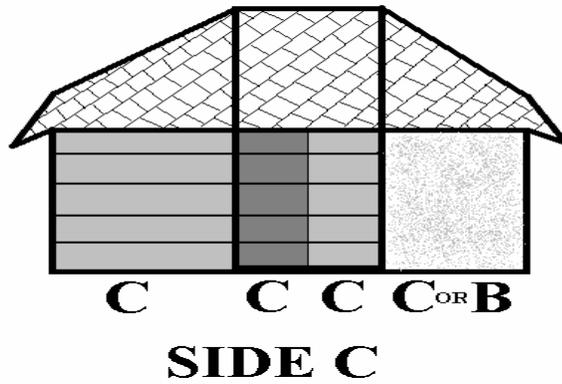
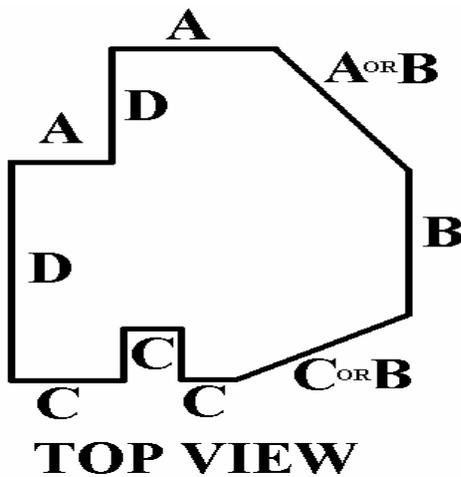
**52.020 DEFINITIONS**

For the purposes of this Code, the terms or phases listed below are to be interpreted as follows:

**Attached sign.** A sign which is mounted to the walls of a building and may either be flat against or projecting from the wall.

**Billboard sign.** A freestanding sign in excess of the maximum size allowed for freestanding signs. (ORD 1514)

**Building face.** The area of a single side of a structure used for computing allowable signage for that structure. More specifically, the building face is the height from grade to the roof eaves multiplied by the width of all walls facing the same direction on a single side of a structure. See illustration below.



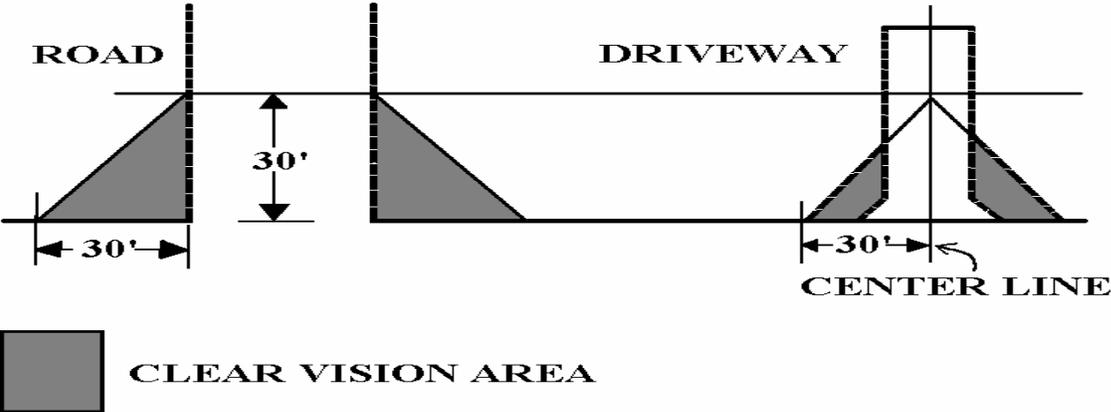
Note: For angled walls, walls cannot be double counted. In other words, to calculate the building face of side "C," you would add C+C+(C or B), while side "B" would then consist of B+(A or B) only. (ORD. 1378)

**Business.** A commercial, office, or industrial development of one or more buildings on one or more tax lots in which there may be shared facilities such as parking, pedestrian mall, or common ownership of real property upon which the development is located. (ORD. 1276)

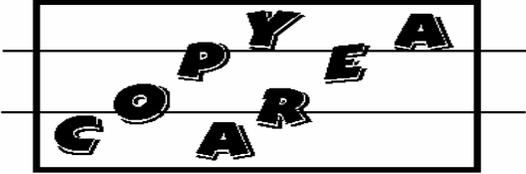
**Business center.** A commercial or industrial area planned and built as a unit containing two or more commercial or industrial establishments on a fully developed site of four acres or more in size, associated by common agreement or under common ownership which comprise a single commercial or industrial unit with common parking, limited access, and a minimum frontage of 200 lineal feet. A large independent store or business on a fully developed site greater than 10 acres in size may also be considered as a shopping center for the purpose of outdoor advertising.

**City sign.** Signs which are erected and maintained by the City. This shall include temporary signs which are specifically approved by the City for placement in the public right-of-way in accordance with a resolution adopted pursuant to Section 52.109(D). (ORD. 1385)

**Clear vision area.** An area of unobstructed visibility which must be maintained for corner lots and driveways as specified in Section 42.050 of this Code. See illustration below.



**Copy area.** The smallest rectangular area which encompasses a business logogram or message. This is used to compute the sign area for, among others, channelized letter signs. The copy area for backlit awning signs shall consist of the area which is illuminated. Depending on the emphasis of the sign structure, the materials on which the sign are placed may be included in the copy area calculations. See illustration below.



**CHANNELIZED SIGN**



**ILLUMINATED PORTION OF AWNING**



**SUBDIVISION MONUMENT**



**SUBDIVISION SIGN**

**Grade.** For the purpose of establishing the height of freestanding signs, the centerline of the nearest street shall be considered grade. The height of all signs mounted on a building shall be measured from the same point considered to be the grade of the building.

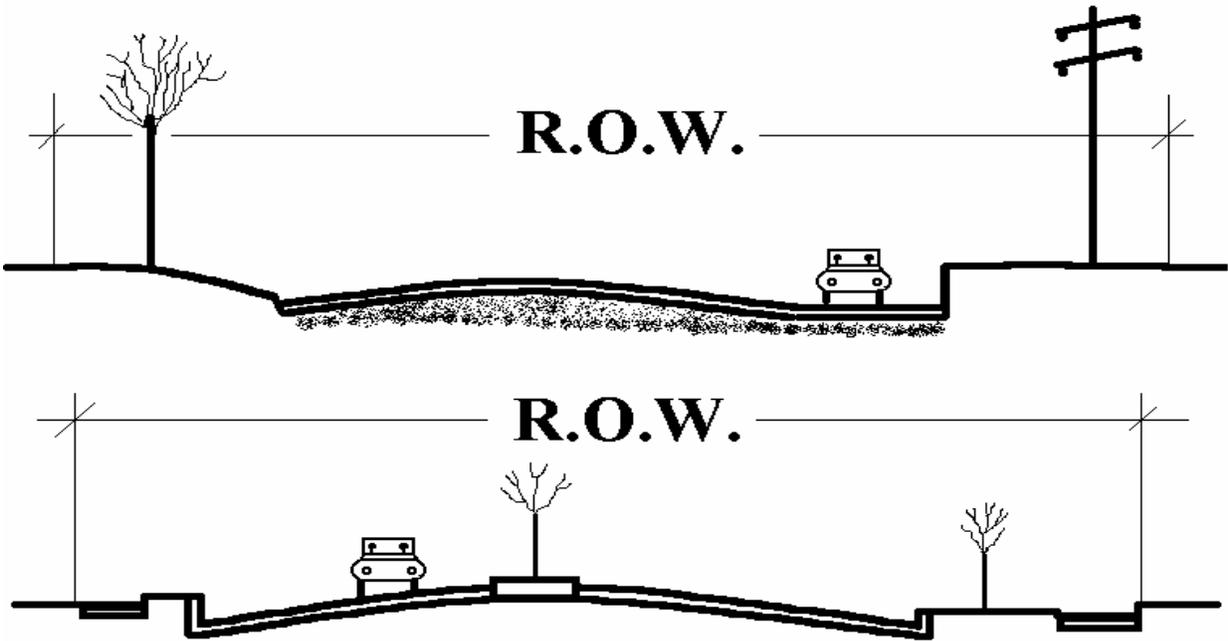
**Incombustible material.** Flame resistant material as defined in the Uniform Building Code, Chapter 43, Fire-Resistive Standards.

**Maintain.** To permit a sign, sign structure, or part thereof to continue; or to repair or refurbish a sign, sign structure, or part thereof.

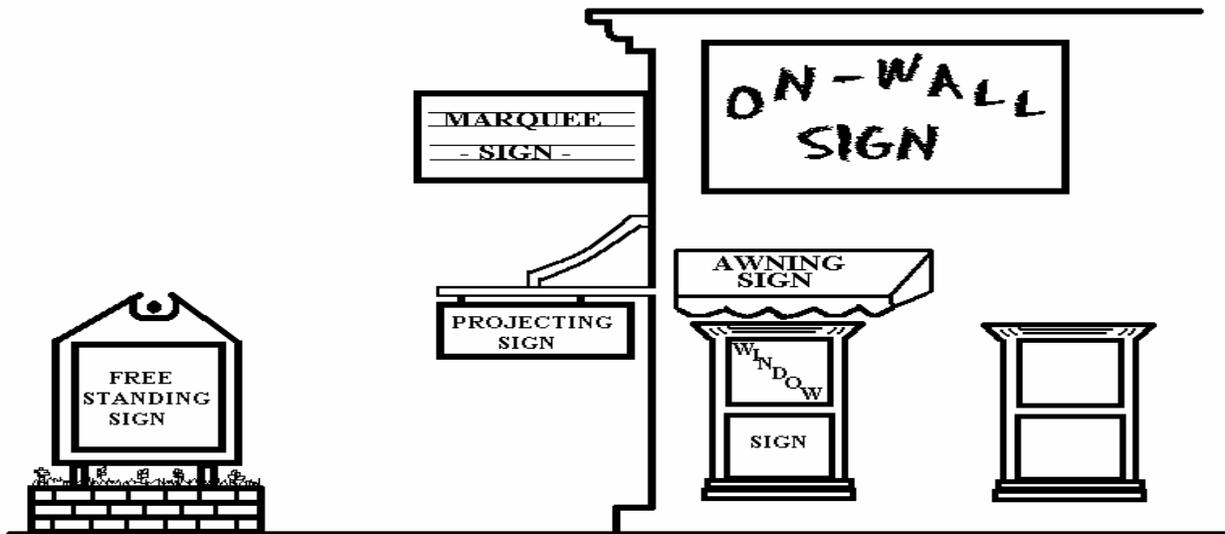
**Non-conforming building.** Any building lawfully constructed prior to the effective date of the Community Development Code, or any subsequent amendment thereto, but which does not conform to current setbacks, height, or structural restrictions of the Code or is so designed that conforming uses cannot adequately use it.

**Non-conforming use.** Any building lawfully constructed prior to the effective date of the Community Development Code codified in this chapter or subsequent amendment thereto, which does not conform to the regulations for the district in which it is located.

**Public Right-of-Way (ROW).** The dedicated area between lots where streets, pedestrian ways, or bicycle paths are typically located. The right-of-way shall include the areas such as the center median, the area between the street and the sidewalk, parking strips, and unimproved areas adjacent to highways. See illustration below.



**Sign.** Any description, words, numbers, or illustration, which is affixed directly or indirectly upon a building, vehicle, structure, or land, which directs attention to a product, place, activity, person, institution, or business, and which is visible from any public street, waterway, alley, or private area open to public vehicular travel. National flags and flags of political subdivisions shall not be construed as signs. See illustration below. (ORD. 1377)



**Sign, A-frame.** A temporary, freestanding, and portable form of advertising, also known as a sandwich board. A-frames may be placed within 10 feet of the structure containing the business being promoted and are subject to the same time limits as other temporary signs. (ORD. 1378)

**Sign, attached.** A sign which is mounted to the walls of a building and may either be flat against or projecting from the wall.

**Projecting sign.** A double-faced sign which projects more than 18 inches from the building wall to which it is attached.

**Wall sign (flat).** A sign which is painted or which is attached so its surface is parallel with the mounting wall and is readable from one side only.

**Sign, awning.** A sign painted, stamped, perforated, stitched, or otherwise applied on the valance of an awning. (ORD. 1539)

**Sign base.** The structure beneath a freestanding sign which houses the upright supports for that sign.

**Sign, changeable copy.** A sign designed such that the copy can be readily altered as described below:

**Changeable copy sign (manual).** A sign on which copy is changed manually in the field; e.g., readerboards with changeable letters.

**Changeable copy sign (automatic).** A sign on which the copy changes automatically on a lampbank or through mechanical means; e.g., electronic or electrical time and temperature units.

**Sign, electric.** Any sign containing electrical wiring but does not include sign illuminated by an exterior floodlight source.

**Sign, entryway.** A free-standing sign placed at the entry to a commercial or industrial property that does not exceed 30 inches in height above grade and does not obstruct vision of motorists at driveway or street intersections. (ORD 1539)

**Sign face or faceplate.** The material on which a design, message, or logogram is printed or otherwise affixed. "Faceplate change" includes any change to an existing sign display.

**Double-faced signs.** Signs which have only two sign surfaces back-to-back. Allowable sign square footage applies to only one side of double-faced signs. (ORD. 1248; 1539)

**Single-face signs.** Signs which have one advertising surface and only one side is visible to public right-of-way or private areas open to public vehicular travel, though not always placed flat against the surface of a wall.

**Sign, freeway-oriented.** A sign primarily designed to be read by a motorist traveling on a highway designated by the Oregon State Highway Department as a freeway or expressway; specifically, this shall be Interstate 205 and shall not include Highway 43. (ORD. 1276)

**Sign, freestanding.** A sign which is ground supported only and has no support other than one or more columns placed on a foundation designed to withstand the maximum "moment" developed by the sign in high wind without lateral bracing or support. Right-of-way setback distance to free-standing signs is measured to the closest part of the sign and/or support structures to the right-of-way. (ORD. 1248)

**Sign, illuminated.** A sign which uses a light source to make recognizable its message or image in darkness. This definition shall include internally and externally lighted signs as well as reflectorized, glowing, or radiating signs.

**Sign, marquee.** Any sign affixed to or constructed in a permanent roofed structure projecting over a pedestrian or vehicular travel way from the side of a building.

**Sign, Non-conforming.** Any sign lawfully installed prior to the effective date of this Code, or any subsequent amendment thereto, which does not meet the current applicable standards for compliance.

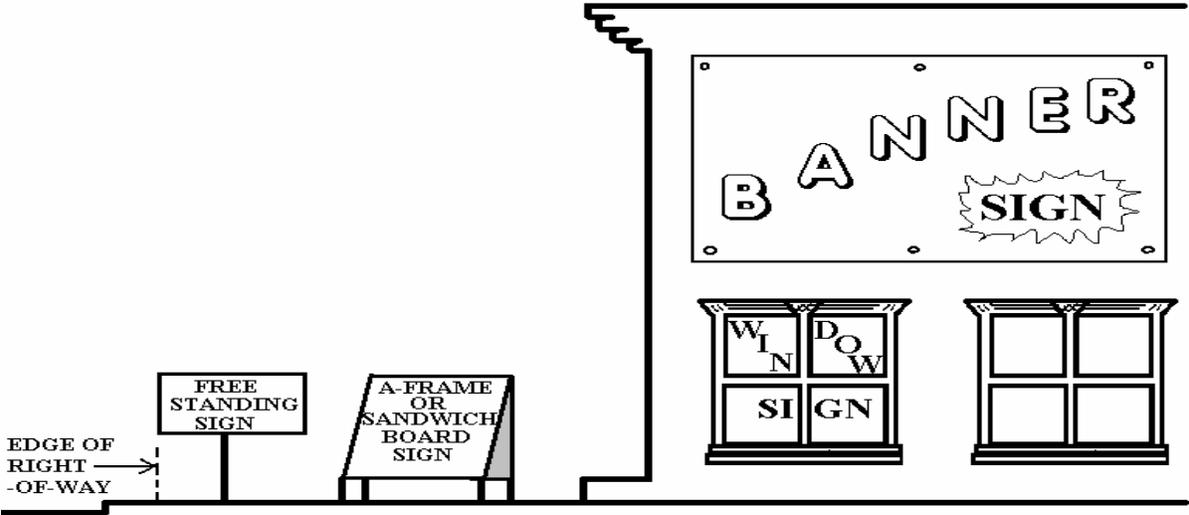
**Sign, permanent.** A sign constructed of durable materials such as wood, plastic, or metal which can withstand the deteriorating effects of weathering (tearing, cracking, peeling, warping, e.g.) for a period of not less than six years. See illustration for "Sign."

**Sign, roof.** A sign erected upon or above a roof or parapet wall of a building and which is wholly or partially supported by said building.

**Sign structure.** The supports, braces, and framework of the sign.

**Sign, subdivision monument.** A sign at the entry to a subdivision on land owned by the homeowners association or the developer. (ORD 1539)

**Sign, temporary.** Any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light materials, with or without frames, intended to be displayed for a limited period of time. See illustration below.



**Total sign area.** The accumulated amount of signage from several locations. Total allowable sign area may normally be divided among two or more signs.

**52.101**

**PROCEDURES AND APPROVAL PROCESS**

- A. A sign exempt from City approval does not require application with the City but shall conform to all other applicable provisions of this Chapter.
- B. A sign subject to City approval is a sign for which approval will be granted by the Planning Director provided all conditions are satisfied; and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060.
  - 2. The decision may be appealed to the City Council as prescribed by Section 99.240(A). (ORD. 1474)
- C. The following Code provisions may be applicable in certain situations:
  - 1. Chapter 42, Clear Vision Area.
  - 2. Chapter 75, Variance.

**52.102**

**TIME LIMIT ON SIGN APPROVAL**

- A. Approval of a sign by the Planning Director shall be void after 90 days if:
  - 1. The sign has not been installed within that 90-day period; or,
  - 2. The sign is a departure from the approval plan.
- B. The Planning Director shall, upon written request by the applicant, grant an extension of the approval period not to exceed 30 days provided that:
  - 1. No changes are made on the original sign as approved by the Director.
  - 2. The applicant can show intent of initiating placement of the sign on the site within the 30-day extension period.
  - 3. There have been no changes in the applicable policies and ordinance provisions on which the approval was based.

**52.103**

**PERMIT**

- A. No sign shall be erected, structurally altered, relocated, or replaced, except for maintenance of signs that conform with this chapter, without first obtaining a permit from the Planning and Development Department,

paying the requisite fee, and otherwise complying with all applicable provisions of this chapter, unless a provision of this chapter specifically exempts a sign from the permit requirement.

- B. A copy of each sign permit, including the permit number, shall be kept by the Planning Director, business owner, person contracting for the erection of the sign, and by the sign company.

## 52.104

### THE APPLICATION

#### A. Permanent Sign Permits

1. An application for a permanent sign permit shall be initiated by the property owner or the owner's authorized agent.
2. An application for a sign permit shall be made on a form prescribed by the Planning Director and shall be filed with the Planning and Development Department. The application shall include three copies of a sketch drawn to scale indicating the following:
  - a. Name, address, and telephone number of the applicant.
  - b. Location by street number and legal description of the building, structure or lot to which or upon which the sign is to be installed or affixed.
  - c. A drawing approximately to scale showing design of the sign including dimensions, height, sign area, materials, method of attachment, source of illumination, and showing the relationship to any building or structure to which it is or is proposed to be installed or affixed or to which it relates. For purposes of this section, "design" does not include text or copy, but an applicant may provide information concerning color, size and style of lettering. (ORD 1539)
  - d. A site plan drawn to scale indicating the location of the sign relative to property lines, structures, other signs on

premises, streets and sidewalks; and the location of any structures, and free-standing signs on abutting properties.

3. The applicant shall pay the required fee. When a sign is erected or placed prior to approval of a required sign permit, the sign permit application fee shall be doubled. Payment of the double fee shall not relieve an applicant from fully complying with the requirements of this ordinance or from any penalties prescribed herein.

(ORD. 1276)

4. After the applicant has installed his or her sign, he or she shall inform the Planning and Development Department of the sign's completed installation.

**B. Temporary Sign Permits**

An application for a temporary sign shall require a deposit set by resolution. The deposit shall be fully refunded to the applicant if the signs are removed within three days of the date specified in the application. The deposit shall be forfeited to the City if the signs are not so removed, and the temporary sign shall be subject to impoundment. (ORD. 1378)

**52.105 BUSINESS LICENSE**

Any person or firm in business of hanging, re-hanging, placing, constructing, installing, structurally altering, relocating, or painting any on-premise signs, except those signs which do not require permits, shall have obtained a City of West Linn business license.

**52.106 SIGN IDENTIFICATION**

Each electrical sign shall have affixed to the sign the name of the sign fabricator or installer and the electrical power consumption stated in volts and amperes. Such information shall be in sufficient size and contrast to be readable upon close inspection.

Upon final approval of any temporary sign permit application, the City will issue an approval decal to be affixed to the sign. This decal shall be affixed in any

corner of the approved sign and shall not be transferrable to unapproved signs.  
(ORD. 1378)

**52.107 MAINTENANCE AND SAFETY**

- A. Each electrical sign shall be constructed to meet the requirements of the State Electrical Code.
- B. All signs, together with all of the supports, braces, guys, and anchors, shall be kept in good repair and be maintained in a safe, neat, clean, and attractive condition, free from rust, corrosion, peeling paint, or other surface deterioration.
- C. No sign shall be erected or maintained in such a manner that any portion of its surface or its supports will interfere in any way with the free use or access to any fire escape, exit, or standpipe. No sign shall be erected or maintained so as to obstruct any window so that light or ventilation is reduced below minimum standards required by any applicable law or building code.
- D. The Building Official may order the removal of any sign erected or maintained in violation of this Chapter. The Building Official shall give written notice, sent by certified mail, to the owner of the sign, or if the sign owner cannot be located, to the property owner. If the sign has not been removed or corrected within a 30-day period, the Building Official may requisition the removal of the sign and the charge for removal shall become a lien on the property. If the Building Official finds that any sign is in violation of this section to the extent that he deems it an immediate and serious danger to the public, he may order its immediate removal.

**52.108 NON-CONFORMING SIGNS**

- A. An existing sign shall be brought into conformance with this Chapter if a change is made in design of the sign frame or supporting structure. A change in plastic face plate of a non-conforming sign will not require replacement of

the total sign, but the new sign face shall conform as fully as possible to the standards of this ordinance.

- B. Any sign which is structurally altered, relocated, or replaced shall immediately be brought into compliance with all the provisions of this chapter, except the signs that are temporarily removed to allow remodeling of the premises and shall be allowed to be relocated upon the completion of remodeling.

**52.109 EXEMPTIONS**

- A. Signs placed inside windows are exempt from the provisions of this chapter. (ORD. 1276)
- B. Signs in the Willamette Falls Drive Commercial Overlay Zone, as defined in Chapter 58 of this Code, shall be reviewed and approved subject to the criteria found in Section 58.090(C)(25) of that chapter. However the dimensional standards for signs in the Willamette Falls Drive Commercial Overlay Zone shall be based on the table in section 52.300. (ORD 1514)
- C. Parking lot signs. Signs up to three square feet in area with a maximum height no greater than five feet above grade and directed to the interior of a parking lot and not to a right of way shall not require a sign permit. (ORD. 1378; 1539)
- C. City signs are exempt from the provisions of this chapter.

**52.110 VARIANCES**

- A. Sign height and sign area variances shall be a Class II variance, and shall be reviewed pursuant to the provisions of Chapter 75 and Section 52.110(C).
- B. All other sign variances shall be treated as Class I variance, and shall be reviewed pursuant to the provisions of Sections 75.050 and 55.110(c).
- C. The granting authority may grant a variance from the requirements of this Chapter if it is established that:
  - 1. The architectural design of a building, the location of a building site or location of building thereon, or some other circumstance

relating to the sign proposal, is unusual or unique and that, because of this, a hardship will be created in that the applicant will be denied an opportunity to identify their business or location relatively equal to the opportunity accorded other members of the community not burdened with such unusual or unique architectural design, building site, or other circumstance.

2. The design is consistent with the request and will not be injurious to the neighborhood in which the property is located or to property established to be affected by the request; and,
3. The request is the minimum variance necessary to provide reasonable signage for the property affected. (ORD. 1276)

## **52.200 PROHIBITED SIGNS**

### **The following signs are prohibited:**

- A. Signs in right-of-way. Signs shall not be located in or extended onto public rights of way. Traffic control signs and devices installed by the governmental entity responsible for the right-of-way and City signs are exempt from this prohibition.
- B. Mobile or portable signs. Mobile or portable signs are prohibited, except as specifically authorized by this chapter.
- C. Signs on roofs or above eaves. Signs mounted on roofs or that project above eaves or parapet walls of a building are prohibited.
- D. Traffic safety risks. Signs that imitate an official traffic sign or signal are prohibited in locations where they create a risk that they may be perceived as actual traffic signs or signals.
- E. Signs that obstruct passage. Signs may not be placed in locations where they may obstruct or substantially limit emergency egress from a building or may obstruct or substantially limit passage to or through any exit, door or window that may be used in case of fire or emergency.
- F. Noise-emitting signs. Signs that emit sounds audible from within a vehicle are prohibited as traffic safety risks.

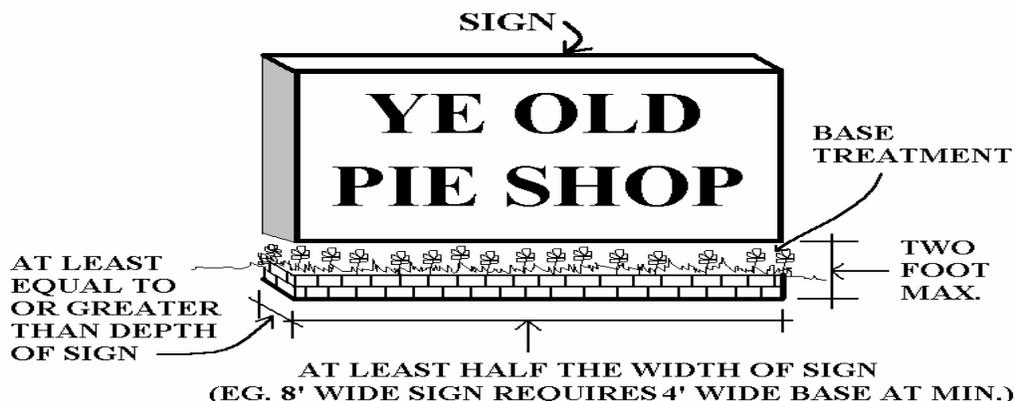
- G. Moving devices. Signs that contain or consist of banners, posters, pennants, ribbons, streamers, balloons, strings of light bulbs, spinners or other similar moving devices, are prohibited, except as specifically permitted on temporary signs.
- H. Signs with movement.. Signs that have blinking, flashing, or fluttering lights, reflectors, or other illuminating devices that have a changing light intensity, brightness, or color, other than permitted electronic changeable copy signs, are prohibited.
- I. Beacon lights. Beacon lights are prohibited. (ORD. 1539)

**52.210 APPROVAL STANDARDS**

All signs shall meet the following standards:

- A. The scale of the sign and its components shall be appropriate for its location and consistent with the applicable design standards.
- B. The size, location, or manner of illumination shall not create a traffic hazard and shall not hide from view any traffic or street sign or signal.
- C. The sign shall be located in compliance with Chapter 42, Clear Vision Area.
- D. Signs and sign structures located over vehicular driveways and pedestrian walkways shall allow at least 15 feet of clearance over driveways and 8 feet of clearance over walkways.
- E. The light from any illuminated sign shall be shaded, shielded, directed or reduced so that the light intensity or brightness is minimized light pollution from the sign. Light pollution shall mean light or illumination other than on the sign face.
- F. Signs shall be located to preserve existing trees, topography and natural drainage, to the extent possible consistent with the installation of the sign.
- G. All permanent signs shall be located within a landscaped area or installed on a wood, stone, or other base structure that meets the following standards:
  - 1. Signs shall be installed a base with a maximum height of two feet, a minimum width of at least one-half as wide as the sign face, and a depth equal to or greater than the depth of the sign.

2. In the event a sign is erected on a multiple pole or piling structure, the base required by Subsection 1 shall be apportioned among each of the upright members.
3. Any wood used in a base shall be treated against water damage and insect assault.



- H. Manual changeable copy signs shall be designed to minimize the opportunity for unauthorized personnel to change the sign copy.
- I. Electronic changeable copy signs are permitted in Business Centers only, either as separate signs or as part of a larger sign. The approval authority may impose conditions of approval regarding the frequency of copy change, the hours of operation, and the methods by which the message is changed in order to assure compliance with the standards of this section and this chapter. Electronic changeable copy signs are subject to the following requirements:
  1. The sign face for the electronic changeable copy sign or portion of a sign may not exceed 24 square feet, provided however that electronic changeable copy signs with greater than 24 square feet may be approved through the conditional use process.
  2. The design and placement of the sign shall not adversely affect vehicular and pedestrian safety.
  3. The sign shall comply with all other requirements of this chapter.
- J. Where both sides of a sign may be viewed from a right of way, the signs shall be double-faced. (ORD. 1539)

			FREESTANDING SIGNS				ON WALL SIGNS		
			City Appvl. Req'd	Illumination	No. Allwd.	Max. Sq. Ft.	Max Height (ft.)	ROW setbck (ft.)	No. Allwd
Residential uses including Home Occ.	No	No	1	2	4	5	or 1^	2	12
Multi-family Complex	Yes	Yes	2	24 total*	8	5	or 2^	24 total*	12
Subdivision Monument	Yes	Yes	5 per subdiv	32 total*	8	5	n/a	n/a	n/a
Industrial Zone Uses	Yes	Yes	10	32	8	5	3	10%	25
Commercial Uses in Residential Zone	Yes	Yes	1	16	8	10	2	5%*	12
Commercial Zone	Yes	Yes	1 <sup>1</sup>	32 <sup>2</sup>	8	5	3	10%*	25
Business Center	Yes	Yes	1	150 <sup>3</sup>	20	15	3	10%*	25
Business Center Entryway	Yes	Yes	1 per entry	4	3	5	n/a	n/a	n/a
Public Uses	Yes	Yes	1 <sup>4</sup>	24	20	5	No limit	18 total	25

### **Notes for Permanent Sign Design Standards**

\* To calculate maximum area, numbers followed with the word “total” are the maximum **total** area of all signs combined. Standards expressed as consents represent the allowed signage size a percentage of one building face. For example, a wall 10 feet tall by 30 feet wide has 300 square feet. If the standard is 10%, signs totaling 30 square feet are permitted. The maximum percentage is for the building – a building with multiple occupants is restricted to the stated percentage per building, not per occupant. (ORD. 1565)

<sup>^</sup> For number of signs allowed, “or 1” and “or 2” designate that the total number of freestanding and wall signs cannot exceed the number stated. If the standard is “or 1,” the applicant may have one freestanding sign or one wall sign, but not both.

<sup>1</sup>Gas stations may have two freestanding signs.

<sup>2</sup>Restaurants with drive through or take-out windows may have an additional 32 square feet.

<sup>3</sup>Up to 35 percent of the total sign area may be used as a changeable copy sign. Where business centers are located within 200 feet of I-205 right-of-way, the freestanding sign may be freeway-oriented. Freeway-oriented signs shall have a maximum total sign area of 210 square feet and a maximum height of 20 feet above the grade of the nearest lane or I-205 or 60 feet, whichever is less. Freeway-oriented signs shall be oriented to view from I-205. Freeway-oriented signs shall not be smaller than 80 square feet. The approval authority may allow a 10 percent increase in the total square footage in order to accommodate unique design problems.

<sup>4</sup>Parks may have two signs per frontage. Signs in parks directed at pedestrians or cyclists within the parks are not limited in number or size. Schools may have two signs.

N/a means not applicable. (ORD. 1539)

**52.310 TEMPORARY SIGN DESIGN STANDARDS**

			FREESTANDING SIGNS				ON WALL SIGNS		
			City Appvl. Req'd	Illumination	No. Allwd.	Max. Sq. Ft.	Max Height (ft.)	ROW setback (ft.)	No. Allwd
Residential uses	No	No	5	24 total	7	1	1	4	12
Commercial/Industrial Uses in:									
Non-Business Center	Yes	No	-	32 total	5	1	1	32	25
Business Center	Yes	No	-	32 total	5	1	2	32	25
Public Uses	Yes	No	5	32	25	1	No limit	32 total	25
Undeveloped/Developing Property									
Less than 1 Acre	No	No	2	6	9	1			
More than 1 Acre	No	No	2	24	12	20	n/a	n/a	n/s

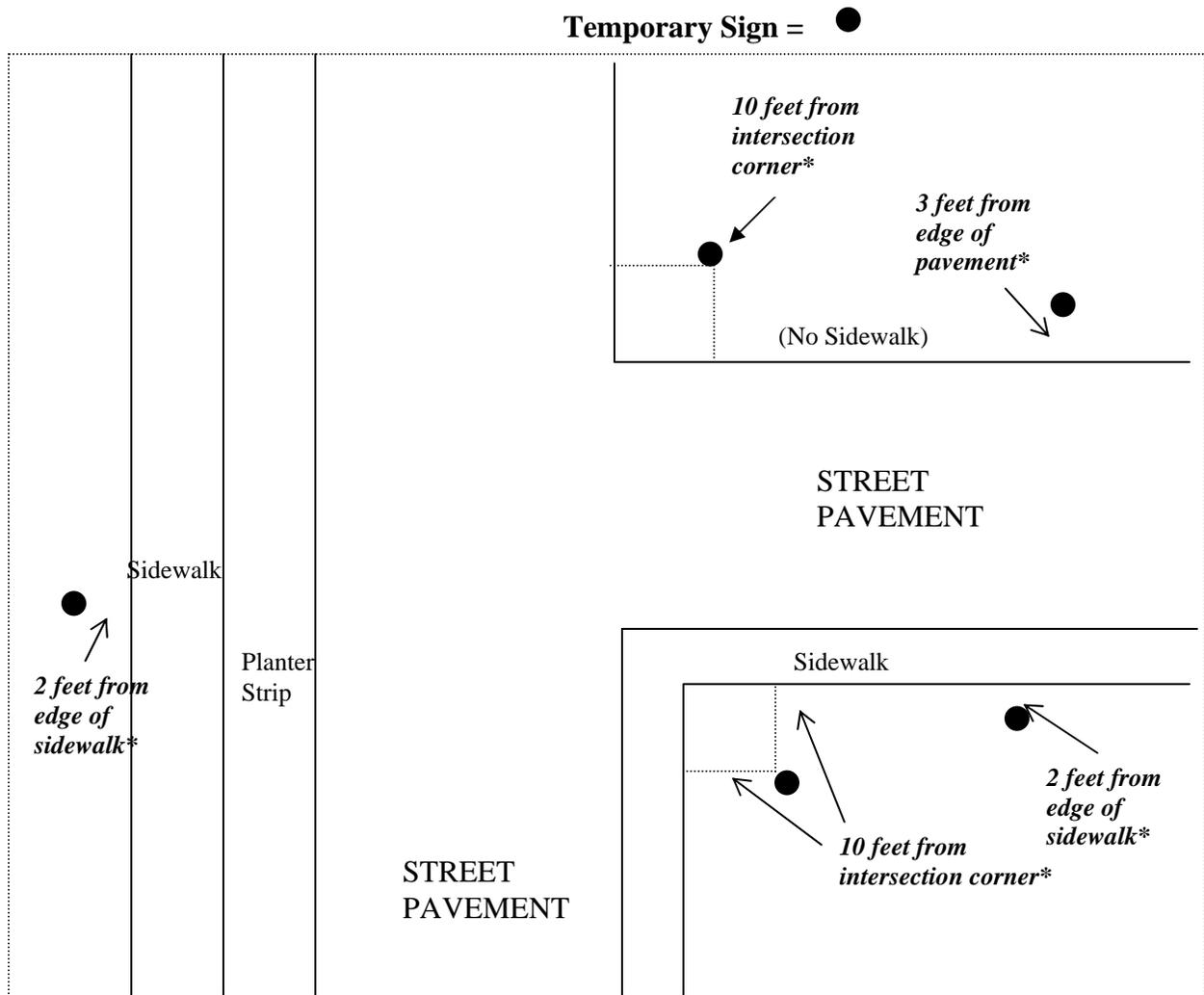
**Notes for Temporary Sign Dimensional Standards:**

<sup>1</sup>Temporary signs are limited to 60 days per calendar year. Freestanding temporary signs shall be located within 10 feet of the business building. For business centers, a maximum of two temporary signs may be located outside of the 10-foot limit, but must be located on the same tax lot as the business. Freestanding signs may remain out until the close of the event (sale, open house, election, etc.). (ORD. 1539)

<sup>3 2</sup>Temporary signs may be located, with the permission of the property owner of the property fronting upon the street where the sign is to be placed, two feet outside of an adjacent sidewalk where one exists, or three feet outside of the edge of pavement where no sidewalk exists for an adjacent public right-of-way. Temporary signs shall also not be located within 10 feet of the intersection of two public rights-of-way, measured from either the edge of pavement or, if a sidewalk exists, the edge of sidewalk. The entire sign must meet these setback standards. (ORD. 1506)

<sup>4</sup>"N/A" means that this standard is not applicable for this type of sign or that no sign is allowed.

**FIGURE 52-8: ILLUSTRATION OF PROPER TEMPORARY SIGN PLACEMENT**



**52.400 NEWLY ANNEXED LAND**

All signs on land annexed to the City of West Linn shall comply with the relevant provisions of the sign ordinance within 30 days of the completion of the annexation. (ORD. 1180)

(AMENDED PER ORD. 1506; 8/04 1539; 8/06; 1547; 2/07; 1565 4/08)



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**53.000        **SIDEWALK USE****

**53.010        **PURPOSE****

The purpose of this chapter is to provide for the display of merchandise or the service of food or beverages on sidewalks in the commercial zones. The standards contained in this chapter are intended to insure that the use of sidewalks will not have a disruptive effect on pedestrians, vehicular traffic, or businesses. The provisions of this chapter apply to sidewalks in the public right-of-way.

**53.020        **PERMIT REQUIRED****

- A. All sidewalk uses shall require a permit.
- B. Sidewalk use application shall be initiated by the business owner or authorized agent.
- C. The applicant shall pay the requisite fee.
- D. The sidewalk use permit is a decision made by the Planning Director under provisions of Section 99.060(A), except that no notice shall be required.
- E. The Planning Director shall approve, approve with conditions, or deny the application for a sidewalk use permit by standards set forth in Section 53.030.
- F. The Director's decision may be appealed by the applicant to the City Council as provided in Section 99.240(A).                   (ORD. 1474)

**53.030        **STANDARDS****

- A. A minimum pedestrian accessway of four feet shall be maintained adjacent to the curb (i.e., display or service shall take place adjacent to the business structure).
- B. Clear vision requirements of Chapter 42 shall not be violated.
- C. The display or service shall not extend beyond the store frontage associated with the products or service.
- D. Any temporary commercial signs shall be subject to Planning Director approval.

**53.040 TIME LIMIT AND REVOCATION**

- A. The Director may revoke a sidewalk use permit if any standards of Section 53.020 or conditions of approval are violated. A sidewalk use permit shall be void one year following issuance of the permit. (ORD. 1172; 9/85)

(AMENDED PER ORD. 1474; 9/01)

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## **54.000 LANDSCAPING**

### **54.010 PURPOSE**

The purpose of this section is to provide for the design, selection, installation, and maintenance of landscaping. The landscaping is intended to provide an attractive natural balance to built areas, to reduce runoff, to provide shade, to screen or buffer uses, and to frame or compliment views. The chapter also encourages the selection of plant materials that will provide long term growth, a balance of year-round coverage and greenery, and a variety of species for a more healthy disease-resistant plant inventory.

### **54.020 APPROVAL CRITERIA**

- A. Every development proposal requires inventorying existing site conditions which include trees and landscaping. In designing the new project, every reasonable attempt should be made to preserve and protect existing trees and to incorporate them into the new landscape plan. Similarly, significant landscaping (e.g., bushes, shrubs) should be integrated. The rationale is that saving a 30-foot tall mature tree helps maintain the continuity of the site, they are qualitatively superior to two or three 2-inch caliper street trees, they provide immediate micro-climate benefits (e.g., shade), they soften views of the street, and they can increase the attractiveness, marketability, and value of the development.
- B. To encourage tree preservation, the parking requirement may be reduced by one space for every significant tree that is preserved in the parking lot area for a maximum reduction of 10 percent of the required parking. The City Parks supervisor or arborist shall determine the significance of the tree and/or landscaping to determine eligibility for these reductions.
- C. Developers must also comply with the Municipal Code chapter on tree protection.
- D. **Heritage trees.** Heritage trees are trees which, because of their age, type, notability, or historical association are of special importance. Heritage

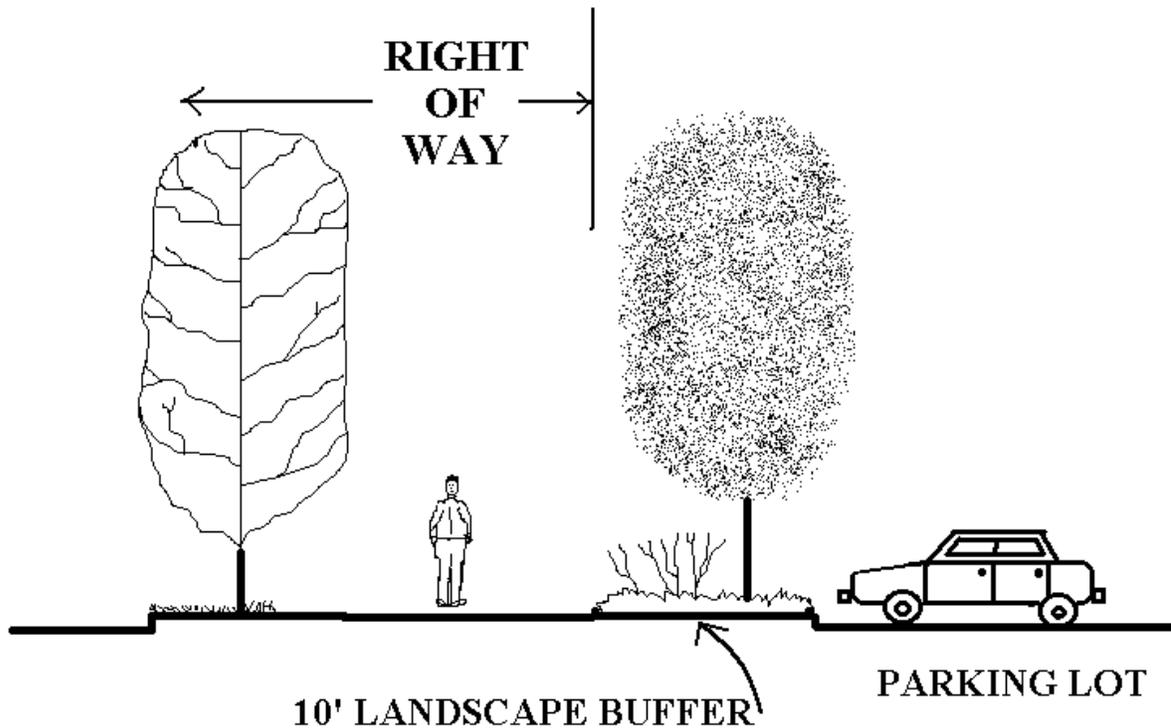
trees are trees designated by the City Council following review of a nomination. A heritage tree may not be removed without a public hearing at least 30 days prior to the proposed date of removal. Development proposals involving land with heritage tree(s) shall be required to protect and save the tree(s). Further discussion of Heritage trees is found in the Municipal Code.

E. **Landscaping - by type, location and amount.**

1. Residential uses (non-single family). A minimum of 25 percent of the gross area including parking, loading and service areas shall be landscaped, and may include the open space and recreation area requirements under Section 55.100. Parking lot landscaping may be counted in the percentage.
2. Non-residential uses. A minimum of 20 percent of the gross site area shall be landscaped. Parking lot landscaping may be counted in the percentage.
3. All uses (residential uses [non-single family] and non-residential uses):
  - a. The landscaping shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area. There shall be one shade tree planted for every eight parking spaces. These trees shall be evenly distributed throughout the parking lot to provide shade. Parking lots with over 20 spaces shall have a minimum 10 percent of the interior of the parking lot devoted to landscaping. Pedestrian walkways in the landscaped areas are not to be counted in the percentage. The perimeter landscaping, explained in Section 54.020(E)(3)(d), shall not be included in the 10 percent figure. Parking lots with 10-20 spaces shall have a

minimum 5 percent of interior of the parking lot devoted to landscaping. The perimeter landscaping, as explained above, shall not be included in the 5 percent. Parking lots with fewer than 10 spaces shall have the standard perimeter landscaping and at least two shade trees. Non-residential parking areas paved with a permeable parking surface may reduce the required minimum interior landscaping by one-third for the area with the permeable parking surface only. (ORD. 1463)

- b. The landscaped areas shall not have a width of less than five feet.
- c. The soils, site, proposed soil amendments, and proposed irrigation system shall be appropriate for the healthy and long term maintenance of the proposed plant species.
- d. A parking, loading, or service area which abuts a street shall be set back from the right-of-way line by perimeter landscaping in the form of a landscaped strip at least 10 feet in width. When a parking, loading, or service area, or driveway is contiguous to an adjoining parcel, there shall be an intervening five-foot wide landscape strip. The landscaped area shall contain:



- 1) Street trees spaced as appropriate to the species, not to exceed 50 feet apart on the average;
  - 2) Shrubs, not to reach a height greater than three feet six inches, spaced no more than five feet apart on the average; or,
  - 3) Vegetative ground cover such as grass, wild flowers, or other landscape material to cover 100 percent of the exposed ground within two growing seasons. No bark mulch shall be allowed except under the canopy of low level shrubs.
- e. If over 50 percent of the lineal frontage of the main street or arterial adjacent to the development site comprises parking lot, the landscape strip between the right-of-way and parking lot shall be increased to 15 feet in width and shall include terrain variations (e.g., 1-foot high berm) plus landscaping. This extra requirement only applies to one street frontage.

- f. A parking, loading, or a service area which abuts a property line shall be separated from the property line by a landscaped area at least five feet in width and which shall act as a screen and noise buffer and the adequacy of the screen and buffer shall be determined by the criteria set forth in Section 55.100(C) and (D) except where shared parking is approved under Section 46.040. (ORD. 1408)
- g. All areas in a parking lot not used for parking, maneuvering, or circulation shall be landscaped.
- h. The landscaping in parking areas shall not obstruct lines of sight for safe traffic operation.
- i. Outdoor storage areas, service areas (loading docks, refuse deposits, and delivery areas), and above-ground utility facilities shall be buffered and screened to obscure their view from adjoining properties and to reduce noise levels to acceptable levels at the property line. The adequacy of the buffer and screening shall be determined by the criteria set forth in Section 55.100(C)(1).
- j. Crime prevention shall be considered and plant materials shall not be located in a manner which prohibits surveillance of public and semi-public areas (shared or common areas).
- k. Irrigation facilities shall be located so that landscaped areas can be properly maintained and so that the facilities do not interfere with vehicular or pedestrian circulation.
- l. For commercial, office, multi-family, and other sites, the developer shall select trees that possess the following characteristics:
  - 1) Provide generous "spreading" canopy for shade.

- 2) Roots do not break up adjacent paving.
  - 3) Tree canopy spread starts at least six feet up from grade in, or adjacent to, parking lots, roads, or sidewalks unless the tree is columnar in nature.
  - 4) No sticky leaves or sap dripping trees (no honey dew excretion).
  - 5) No seed pods or fruit bearing trees (flowering trees are acceptable).
  - 6) Disease resistant.
  - 7) Compatible to planter size.
  - 8) Drought tolerant unless irrigation is provided.
  - 9) Attractive foliage or form all seasons.
- n. Plant materials (shrubs, ground cover, etc.) shall be selected for their appropriateness to the site, drought tolerance, year-round greenery and coverage, staggered flowering periods, and avoidance of nuisance plants (Scotch broom, etc.).

F. **Landscaping (trees) in new subdivision.**

1. Street trees shall be planted by the City within the planting strips (minimum six-foot width) of any new subdivision in conformity with the Street Tree Plan for the area, and in accordance with the planting specifications of the Parks and Recreation Department. All trees shall be planted during the first planting season after occupancy. In selecting types of trees, the City Arborist may determine the appropriateness of the trees to local conditions and whether that tree has been overplanted, and whether alternate species should be selected. Also see Section 54.040(C)(12).
2. The cost of street trees shall be paid by the developer of the subdivision.

3. The fee per street tree, as established by the City, shall be based upon the following:
  - a. The cost of the tree;
  - b. Labor and equipment for original placement;
  - c. Regular maintenance necessary for tree establishment during the initial two-year period following the City schedule of maintenance; and,
  - d. A two-year replacement warrantee based on the City's established failure rate.

**54.030 PLANTING STRIPS FOR MODIFIED AND NEW STREETS**

All proposed changes in width in a public street right-of-way, or any proposed street improvement shall, where feasible, include allowances for planting strips. Plans and specifications for planting such areas shall be integrated into the general plan of street improvements. This ordinance requires any multi-family, commercial, or public facility which causes change in public right-of-way or street improvement to comply with the street tree planting plan and standards.

**54.040 INSTALLATION**

- A. All landscaping shall be installed according to accepted planting procedures.
- B. The soil and plant materials shall be of good quality.
- C. Landscaping shall be installed in accordance with the provisions of this code.
- D. Certificates of occupancy shall not be issued unless the landscaping requirements have been met or other arrangements have been made and approved by the City such as the posting of a bond.

**54.050 PROTECTION OF STREET TREES**

Street trees may not be topped or trimmed unless approval is granted by the Parks Supervisor or, in emergency cases, when a tree imminently threatens power lines.

**54.060 MAINTENANCE**

- A. The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat, and orderly appearance and shall be kept free from refuse and debris.
- B. All plant growth in interior landscaped areas shall be controlled by pruning, trimming, or otherwise so that:
  - 1. It will not interfere with the maintenance or repair of any public utility;
  - 2. It will not restrict pedestrian or vehicular access; and,
  - 3. It will not constitute a traffic hazard because of reduced visibility.

**54.070 SPECIFICATION SUMMARY**

<b>Area/Location</b>	<b>Landscaping Req'd.</b>
1. Between parking lot and R-O-W.	10 ft.
2. Between parking lot and other lot.	5 ft.
3. Between parking lot and R-O-W if parking lot comprises more than 50% of main R-O-W frontage.	15 ft
4. Percentage of residential/multi-family site to be landscaped.	25%
5. Percentage of non-residential (commercial/industrial/office) site to be landscaped.	20%
6. Percentage of 10-25 car parking lot to be landscaped (excluding perimeter).	5%
7. Percentage of 1-9 car parking lot to be landscaped (excluding perimeter).	0%
8. Percentage of 26+ car parking lot to be landscaped (excluding perimeter).	10%

(AMENDED PER ORD. 1463; 10/00)

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## **55.000 DESIGN REVIEW**

### **55.010 PURPOSE AND INTENT - GENERAL**

The purpose of the design review provisions is to establish a process and standards for the review of development proposals in order to conserve and enhance the appearance of the City and to promote functional, safe, and innovative site development. Attention will be paid to the proposal's scale, layout and design, its compatibility with the surrounding natural environment, and the character of the surrounding neighborhood or area. The intent is to ensure that there is general compatibility between adjoining uses, that private and common outdoor space is provided, that vehicular access and circulation is safe, and that areas of public use are made aesthetically attractive and safe. Also of concern are the needs of persons with disabilities.

Multi-family, industrial, commercial, office, and public projects will comply with the Transportation Planning Rule (TPR). The TPR is a state requirement that jurisdictions must reduce reliance on the automobile by, in part, encouraging other modes of transportation such as transit, bicycles, and foot traffic, or through building orientation or location.

### **55.020 APPLICABILITY**

This chapter provides two levels of design review: Class I and Class II. Class I design review applies to land uses and activities that require only a minimal amount of review. Class II design review is reserved for land use and activities that require comprehensive review. Class I design review applies to the following land uses and activities:

1. Sidewalks.<sup>1</sup>
2. Transit shelters.
3. Fences and walls (at non-single family/duplex residential sites).

4. Modification of an office, commercial, industrial, public or multi-family structure for purposes of enhancing the aesthetics of the building and not increasing the interior usable space (e.g., covered walkways or entryways, addition of unoccupied features such as cupolas, clock towers, etc.).
5. Significant road realignment (when not part of a subdivision or partition plat process). Significant shall be defined by the length of the realignment and/or extent of redesign, and/or the natural features or manmade structures that will be impacted or removed.
6. Loading docks.<sup>1</sup>
7. Addition or reduction of less than five percent of total square footage of a commercial, office, public, multi-family, or industrial building.
8. Addition or reduction of parking stalls.<sup>1</sup>
9. Revised parking alignment.<sup>1</sup>
10. Revised circulation.<sup>1</sup>
11. Revised points of ingress/egress to a site.<sup>1</sup>
12. Modification of a landscape plan (including water features, ponds, pergolas, arbors, artwork, sculptings, etc).
13. Minor modifications and/or upgrades of pump stations, reservoirs, and storm detention facilities.
14. Americans with Disability Act compliance that significantly alters the exterior of the building (ramps are exempt).
15. Heating ventilation air conditioners (HVAC) that are visible from right-of-way or abutting property.<sup>1</sup>
16. Freestanding art and statuary over five feet tall.

17. Other land uses and activities may be added if the Planning Director makes written findings that the activity/use will not increase off-site impacts and is consistent with the type and/or scale of activities/uses listed above.

Class II design review applies to all uses/activities except those uses/activities listed under Class I design review, and the exceptions of Section 55.025. Class I design review shall apply to non-subdivided single-family detached dwelling projects.

Footnote: <sup>1</sup>Class II design review applies when the proposed improvement, land use, or activity (e.g., new sidewalks) is part of a major commercial, office, industrial, public, or multi-family construction project (e.g., a new shopping center). Class I design review applies when this improvement, use, or activity is part of a minor re-design or remodel. No design review is required if the applicant proposes to repair or replace one of the footnoted items. This shall be a Planning Director's code interpretation.

## **55.025**

### **EXEMPTIONS**

The provisions of this chapter exempt individual single-family residential houses construction, single-family detached housing subdivisions, accessory structures, 1-2 duplexes or single-family attached structures except as indicated otherwise. Architectural replacement in-kind, for example replacing a composition roof on a commercial building with another roof. Also exempt is replacement in-kind of building materials that are equal or superior to existing materials (for example, replacing T-111 wood siding with cedar lap siding or brick). Retrofitted awnings, changes in color schemes, wall art, and freestanding statuary or art under five feet tall are exempt from design review, but shall be subject to Planning Director review under the provisions of CDC Section 99.060(A)(2), Prescribed Conditions and the approval criteria of Section 55.100(B)(6)(a-b). (ORD. 1408)

**55.030**

**ADMINISTRATION AND APPROVAL PROCESS**

- A. A pre-application conference is required before submitting a development plan application for design review as provided by Sections 99.030(B).
- B. The application shall be submitted by the record owner(s) of the property, authorized agent, or condemnor.
- C. Action on the development plan application shall be as provided by CDC Chapter 99, Procedures for Decision-Making: Quasi-Judicial, and the following: (ORD. 1474)
  - 1. The Planning Director for Class I design review applications or Planning Commission for Class II design review applications, shall approve, approve with conditions, or deny the application based on findings related to the applicable criteria set forth in Section 99.110 and this chapter. (ORD. 1474)
  - 2. A decision by the Planning Director may be reviewed by the City Council. (ORD. 1474)
- D. Substantial modifications made to the approved development plan will require re-application (e.g., more or fewer lots, different architectural design, etc.).
- E. Design review of single-family detached dwellings in the Historic District, landmark structures, and buildings in the Willamette Falls Drive overlay zone shall be reviewed by the West Linn/Clackamas County Historic Review Board per Chapter 99.

**55.040**

**EXPIRATION OF APPROVAL**

If substantial construction has not occurred within three years from the date of approval of the development plan, the approved proposal will be void.  
(ORD. 1408)

**55.050**

**DESIGN REVIEW AMENDMENT TRIGGER**

Amendments to design review shall be required when 10 percent or more of the housing type changes (e.g., from single-family units to multi-family units) from the tentatively approved design review plan, or when there is more than a 10

percent change in the number of units, or when the layout of streets and lots significantly changes, or adjusting more than 20 percent of the building footprint or site plan, or significant changes to the architecture that modify the style, mass, or result in elimination of significant design features. Changes in color or materials would not require an amendment unless the colors were non-earth tones and the materials were of poorer quality (for example, going from tile roof to composition roofing) than originally approved. Changes to the project/site plan to meet conditions of approval or legislative changes shall not trigger an amendment. (ORD. 1408)

**55.060 STAGED OR PHASED DEVELOPMENT**

The applicant may elect to develop the site in stages. Staged development shall be subject to the provisions of Section 99.125.

**55.070 SUBMITTAL REQUIREMENTS (ORD. 1401)**

- A. The design review application shall be initiated by the property owner or the owner's agent, or condemnor.
- B. A pre-application conference shall be a prerequisite to the filing of an application.
  - 1. The Director shall explain the applicable policies, ordinance provisions, opportunities and constraints which may be applicable to the site and type of proposed development. The Director shall determine which class of design review is required. (ORD. 1408)
  - 2. The following subjects shall be reviewed at the pre-application conference:
    - a. The parcel's location and size, the Comprehensive Plan, zoning, and other possible and applicable ordinance provisions.
    - b. The proposed use and types of adjacent land uses and the opportunities for shared use such as parking, or for the need for buffers or sound barriers.

- c. The natural features on the site: topography, drainage courses, micro-climate vegetation, and soil conditions and stability as these features relate to plan policies and ordinance provisions and the site development plan.
  - d. The availability of utilities (on site and off site).
  - e. The site access and potential traffic problems.
  - f. The availability of transit, capacity of the road system, and existence of plans for bicycle and pedestrian ways.
  - g. Existing or potential noise sources.
  - h. Conditions placed on previous applications.
  - i. Review submittal requirements.
  - j. Preferred architectural design and building orientation.
- C. A pre-requisite to the filing of an application for development proposals that include greater than 10 multi-family units or commercial/industrial buildings greater than 1500 square feet in size, a 4-lot or more planned unit development, a 10-lot or greater subdivision, or a zone change that requires a Comprehensive Plan amendment, is a meeting with the respective City recognized neighborhood association, per CDC Section 99.038, at which time the applicant will present their proposal and receive comments. Wireless communication facilities (WCF) shall also fulfill co-location protocol of CDC Section 57.090. (ORD. 1408)
- D. The applicant shall submit a completed application form and:
- 1. The development plan for a Class I design review shall contain the following elements:
    - a. A site analysis (Section 55.110) only if the site is undeveloped.
    - b. A site plan (Section 55.120) is required.
    - c. Architectural drawings, including building envelopes and all elevations (Section 55.140) only if architectural work is proposed.

- d. Pursuant to Section 55.085, additional submittal material may be required.

One original application form must be submitted. Three copies at the original scale and three copies reduced to 11 X 17 inches or smaller of all drawings and plans must be submitted. Three copies of all other items must be submitted. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department.

(ORD. 1442)

2. The development plan for a Class II design review shall contain the following elements:
  - a. A site analysis (Section 55.110);
  - b. A site plan (Section 55.120);
  - c. A grading plan (Section 55.130);
  - d. Architectural drawings, indicating floor plan and elevation (Section 55.140);
  - e. A landscape plan (Section 55.150);
  - f. A sign plan (Section 55.160); and,
  - g. A pedestrian and automobile circulation plan.
  - h. The utility plan: The application shall include a submittal appropriate to respond to the approval criteria of CDC Section 55.100(I)(1-5) relating to streets, drainage, municipal water, sanitary sewers, solid waste, and recycling storage.
3. A narrative, based on the standards contained in this Code, which supports any requested exceptions as provided under Section 55.170.

4. Submit full written responses to approval criteria of Section 55.100 for Class II design review, or Section 55.090 for Class I design review, plus all applicable referenced approval criteria.

E. The applicant shall submit samples of all exterior building materials and colors in the case of new buildings or building remodeling.

F. The applicant shall pay the required fee. (ORD. 1408)

**55.085**

**ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS**

A. The Planning Director may require additional information as part of the application subject to the provisions of Section 99.035(A).

B. The Planning Director may waive any requirements for the application subject to the provisions of Section 99.035(B) and (C).

**55.090**

**APPROVAL STANDARDS - CLASS I DESIGN REVIEW**

The Planning Director shall make a finding with respect to the following criteria when approving, approving with conditions, or denying a Class I design review application:

A. The provisions of the following sections shall be met:

1. Section 55.100 B (1-4) "Relationship to the natural physical environment" shall apply except in those cases where the proposed development site is substantially developed and built out with no remaining natural physical features that would be impacted.

2. Section 55.100 B (5-6) "Architecture, et al" shall only apply in those cases that involve exterior architectural construction, remodeling, or changes.

3. Pursuant to Section 55.085, the Director may require additional information and responses to additional sections of the approval criteria of this section depending upon the type of application.

- B. An application may be approved only if adequate public facilities will be available to provide service to the property at the time of occupancy.

(ORD. 1544)

- C. The Planning Director shall determine the applicability of the approval criteria in 55.090(A), above. (ORD. 1408) (ORD.1544)

**55.100**

**APPROVAL STANDARDS - CLASS II DESIGN REVIEW**

The approval authority shall make findings with respect to the following criteria when approving, approving with conditions, or denying a Class II design review application. (ORD. 1408)

- A. The provisions of the following chapters shall be met:

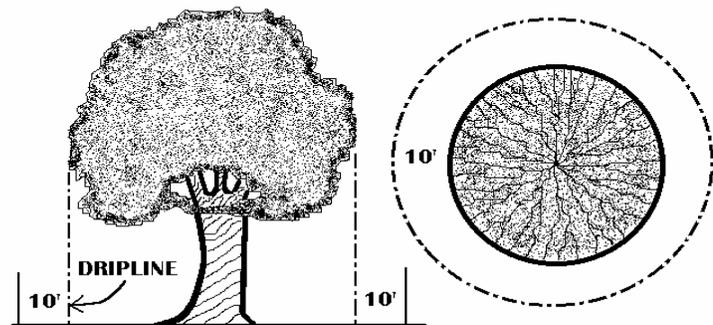
1. Chapter 33, Storm Water Quality and Detention. (ORD. 1463)
2. Chapter 34, Accessory Structures.
3. Chapter 38, Additional Yard Area Required.
4. Chapter 40, Building Height Limitations and Exceptions.
5. Chapter 42, Clear Vision Areas.
6. Chapter 44, Fences & Screening Outdoor Storage.
7. Chapter 46, Off-Street Parking and Loading.
8. Chapter 48, Access.
9. Chapter 52, Signs.
10. Chapter 54, Landscaping.

- B. **Relationship to the natural and physical environment.**

1. The buildings and other site elements shall be designed and located so that all heritage trees, as defined in the Municipal Code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at his/her direction.
2. All heritage trees, as defined in the Municipal Code, all trees and clusters of trees (cluster is defined as three or more trees with overlapping driplines; however, native oaks need not have an overlapping dripline) that are considered significant by the City Arborist, either individually or in consultation with certified

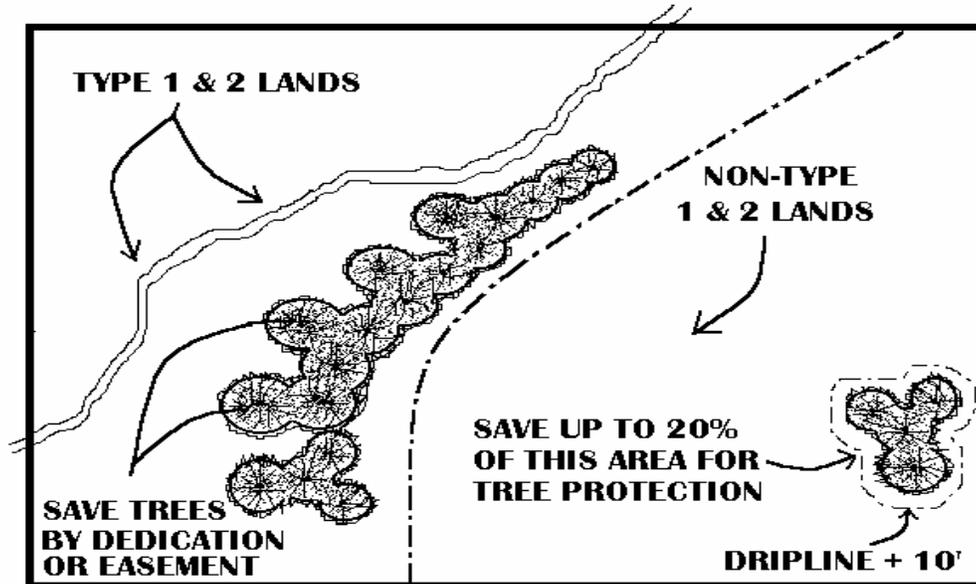
arborists or similarly qualified professionals, based on accepted arboricultural standards including consideration of their size, type, location, health, long term survivability, and/or numbers, shall be protected pursuant to the criteria of subsections 2(a-f) below. In cases where there is a difference of opinion on the significance of a tree or tree cluster, the City Arborist's findings shall prevail. It is important to acknowledge that all trees are not significant and, further, that this code section will not necessarily protect all trees deemed significant.

- a. Non-residential and residential projects on Type I and II lands shall protect all heritage trees and all significant trees and tree clusters by either the dedication of these areas or establishing tree conservation easements. Development of Type I and II lands shall require the careful layout of streets, driveways, building pads, lots, and utilities to avoid heritage trees and significant trees and tree clusters, and other natural resources pursuant to this code. The method for delineating the protected trees or tree clusters ("dripline + 10 feet") is explained in subsection (b) below. Exemptions of subsections (c), (e), and (f) below shall apply.



**PROTECTED AREA = DRIPLINE + 10 FEET**

- b. Non-residential and residential projects on non-Type I and II lands shall set aside up to 20 percent of the area to protect trees and tree clusters that are determined to be significant, plus any heritage trees. Therefore, in the event that the City Arborist determines that a significant tree cluster exists at a development site, then up to 20 percent of the non-Type I and II lands shall be devoted to the protection of those trees, either by dedication or easement. The exact percentage is determined by establishing the driplines of the trees or tree clusters that are to be protected. In order to protect the roots which typically extend further, an additional 10-foot measurement beyond the dripline shall be added. The square footage of the area inside this "dripline plus 10 feet" measurement shall be the basis for calculating the percentage (see figure below). The City Arborist will identify which tree(s) are to be protected. Development of non-Type I and II lands shall also require the careful layout of streets, driveways, building pads, lots, and utilities to avoid significant trees, tree clusters, heritage trees, and other natural resources pursuant to this code. Exemptions of subsections (c), (e), and (f) below shall apply. Please note that in the event that more than 20 percent of the non-Type I and II lands comprise significant trees or tree clusters, the developer shall not be required to save the excess trees, but is encouraged to do so.



**METHOD OF PERCENTAGE CALCULATION**

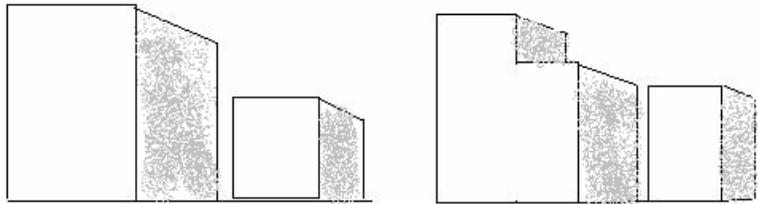
**E.G., DRIPLINE + 10 FT. AREA = 2,500 SQ. FT. OR 18% OF TOTAL NON-TYPE I AND II LAND DENSITY CALCULATIONS FOR THIS PARCEL WILL BE BASED ON REMAINING NET SQ. FOOTAGE OF SITE (EXCLUDING THE 2,500 SQ. FT.)**

- c. Where stubouts of streets occur on abutting properties, and the extension of those streets will mean the loss of significant trees, tree clusters, or heritage trees, it is understood that tree loss may be inevitable. In these cases, the objective shall be to minimize tree loss. These provisions shall also apply in those cases where access, per construction code standards, to a parcel is blocked by a row or screen of significant trees or tree clusters.
- d. For both non-residential and residential development, the layout shall achieve at least 70 percent of maximum density for the developable net area. The developable net area excludes all Type I and II lands and up to 20 percent of the remainder of the site for the purpose of protection of stands or clusters of trees as defined in CDC Section 55.100(B)(2).



- e. For arterial and collector street projects, including Oregon Department of Transportation street improvements, the roads and graded areas shall avoid tree clusters where possible. Significant trees, tree clusters, and heritage tree loss may occur, however, but shall be minimized.
  - f. If the protection of significant tree(s) or tree clusters is to occur in an area of grading that is necessary for the development of street grades, per City construction codes, which will result in an adjustment in the grade of over or under two feet, which will then threaten the health of the tree(s), the applicant will submit evidence to the Planning Director that all reasonable alternative grading plans have been considered and cannot work. The applicant will then submit a mitigation plan to the City Arborist to compensate for the removal of the tree(s) on an "inch by inch" basis (e.g., a 48-inch Douglas Fir could be replaced by 12 trees, each 4-inch). The mix of tree sizes and types shall be approved by the City Arborist.
- 3. The topography and natural drainage shall be preserved to the greatest degree possible. (ORD. 1408)
  - 4. The structures shall not be located in areas subject to slumping and sliding. The Comprehensive Plan Background Report's Hazard Map, or updated material as available and as deemed acceptable by the Planning Director, shall be the basis for preliminary determination.
  - 5. There shall be adequate distance between on site buildings and on site and off site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection.
  - 6. Architecture.
    - a. The predominant architecture of West Linn identified in the West Linn vision process was contemporary vernacular

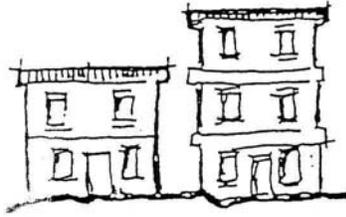
residential designs emphasizing natural materials: wood with brick and stone detail. Colors are subdued earth tones: greys, brown, off-whites, slate, and greens. Pitched roofs with overhanging eaves, decks, and details like generous multi-light windows with oversized trim are common. Also in evidence are the 1890s Queen Anne style homes of the Willamette neighborhood. Neo-traditional homes of the newer subdivisions feature large front porches with detailed porch supports, dormers, bracketed overhanging eaves, and rear parking for cars. Many of these design elements have already been incorporated in commercial and office architecture.



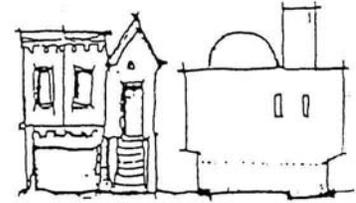
***mass/bulk overwhelms  
smaller building***

***mass/bulk effectively  
transitions***

- b. The proposed structure(s) scale shall be compatible with the existing structure(s) on site and on adjoining sites. Contextual design is required. Contextual design means respecting and incorporating prominent architectural styles, building lines, roof forms, rhythm of windows, building scale and massing, materials and colors of surrounding buildings in the proposed structure.

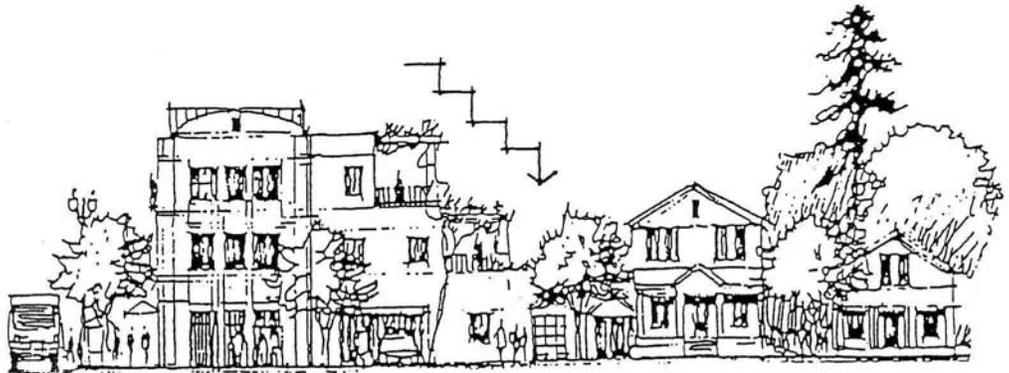


*contextual design*



*contrasting design*

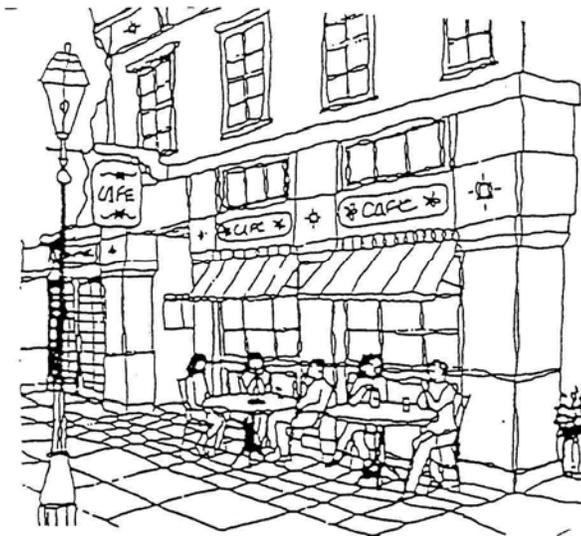
- c. While there has been discussion in Chapter 24 about transition, it is appropriate that new buildings should architecturally transition in terms of bulk and mass to work with, or fit, adjacent existing buildings. This transition can be accomplished by selecting designs that "step down" or "step up" from small to big structures and vice versa (see figure below). Transitions may also take the form of carrying building patterns and lines (e.g., parapets, windows, etc.) from the existing building to the new one.



- d. Contrasting architecture shall only be permitted when the design is manifestly superior to adjacent architecture in terms of creativity, design, and workmanship, and/or it is adequately separated from other buildings by distance, screening, grade variations, or is part of a development site that is large enough to set its own style of architecture.
- e. Human scale is a term that seeks to accommodate the users of the building and the notion that buildings should be

designed around the human scale (e.g., his/her size and the average range of their perception). Human scale shall be accommodated in all designs by, for example, multi-light windows that are broken up into numerous panes, intimately scaled entryways, visual breaks (exaggerated eaves, indentations, ledges, parapets, awnings, engaged columns, etc.) in the facades of buildings, both vertically and horizontally.

The human scale is enhanced by bringing the building and its main entrance up to the edge of the sidewalk. It creates a more dramatic and interesting streetscape and improves the "height and width" ratio referenced in this section.

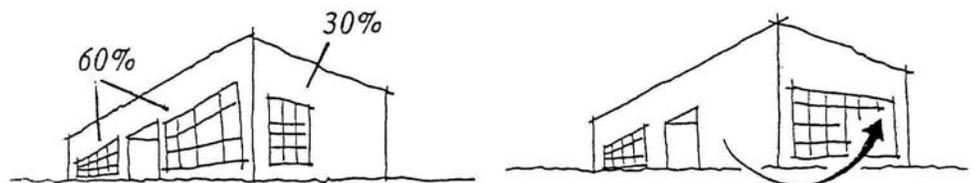


*human scale is captured in this example*

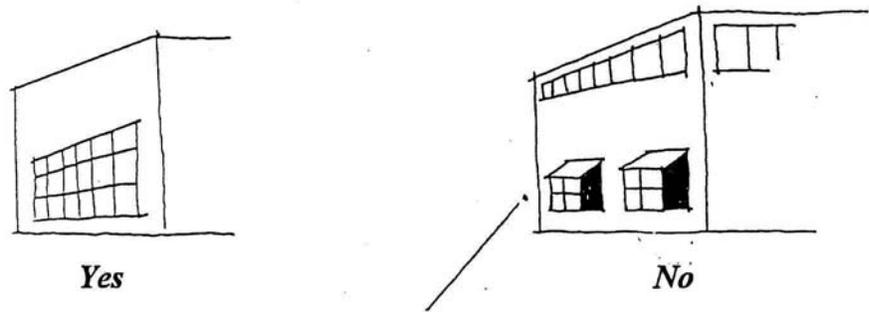
- f. The main front elevation of commercial and office buildings shall provide at least 60 percent windows or transparency at the pedestrian level to create more interesting streetscape and window shopping opportunities. One side elevation shall provide at least 30 percent transparency. Any additional side or rear elevation, which is visible from a collector road or greater classification,

shall also have at least 30 percent transparency.

Transparency on other elevations is optional. The transparency is measured in lineal fashion. For example, a 100-foot long building elevation shall have at least 60 feet (60% of 100) in length of windows. The window height shall be, at minimum, three feet tall. The exception to transparency would be cases where demonstrated functional constraints or topography restrict that elevation from being used. When this exemption is applied to the main front elevation, the square footage of transparency that would ordinarily be required by the above formula shall be installed on the remaining elevations at pedestrian level in addition to any transparency required by a side elevation, and vice versa. The rear of the building is not required to include transparency. The transparency must be flush with the building elevation. (ORD. 1463)



***60% of lineal street facing or main elevation is windows.  
30% of one side elevation is windows. You may transfer  
windows from the side to front, or vice versa.***



*(Windows not at eye level and/or not flush with building.)*

- g. Variations in depth and roof line are encouraged for all elevations.  
To vary the otherwise blank wall of most rear elevations, continuous flat elevations of over 100 feet in length should be avoided by indents or variations in the wall. The use of decorative brick, masonry, or stone insets and/or designs is encouraged. Another way to vary or soften this elevation is through terrain variations such as an undulating grass area with trees to provide vertical relief.
- h. Consideration of the micro-climate (e.g., sensitivity to wind, sun angles, shade, etc.) shall be made for building users, pedestrians, and transit users, including features like awnings.
- i. The Vision Statement identified a strong commitment to developing safe and attractive pedestrian environments with broad sidewalks, canopied with trees and awnings.



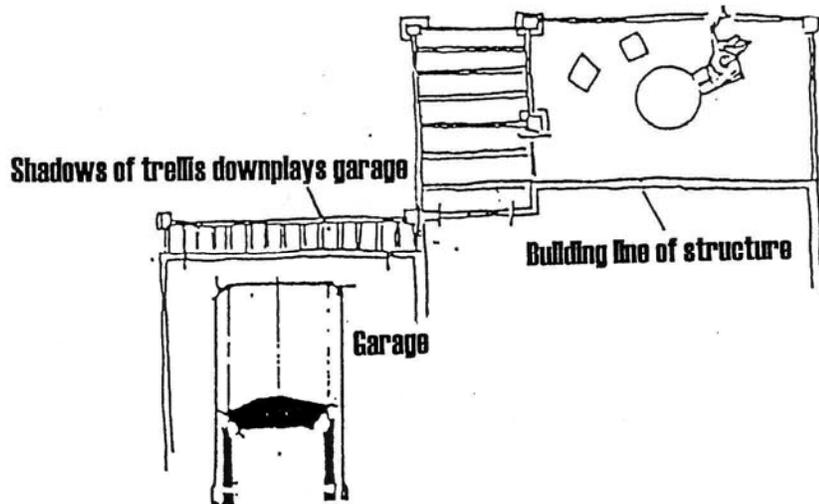
*trees, awnings, and building  
orientation enhance micro-climate*

- j. Sidewalk cafes, kiosks, vendors, and street furniture are encouraged. However, at least a four foot wide pedestrian accessway must be maintained per Chapter 53, Sidewalk Use.
7. Transportation Planning Rule (TPR) compliance. The automobile shall be shifted from a dominant role, relative to other modes of transportation, by the following means:
- a. Commercial and office development shall be oriented to the street. At least one public entrance shall be located facing an arterial street; or, if the project does not front on an arterial, facing a collector street; or, if the project does not front on a collector, the local street with highest traffic levels. Parking lots shall placed behind or to the side of commercial and office development. When a large and/or multi-building development is occurring on a large undeveloped tract (3+ acres), it is acceptable to focus internally; however, at least 20 percent of the main adjacent

right-of-way shall have buildings contiguous to it unless waived per CDC Section 55.100(B)(7)(c). These buildings shall be oriented to the adjacent street and include pedestrian-oriented transparencies on those elevations. For individual buildings on smaller individual lots, at least 30 lineal feet or 50 percent of the building must be adjacent to the right-of-way unless waived per CDC Section 55.100(B)(7)(c). The elevations oriented to the right-of-way must incorporate pedestrian-oriented transparency.

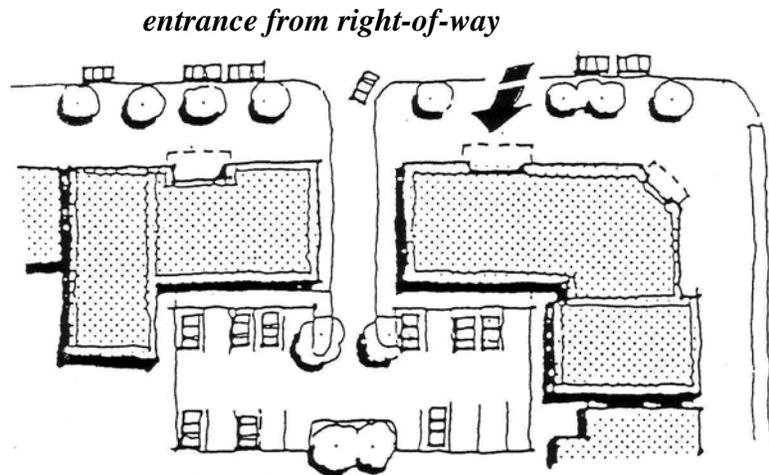
(ORD. 1425)

- b. Multi-family projects shall be required to keep the parking at the side or rear of the buildings or behind the building line of the structure as it would appear from the right-of-way inside the multi-family project. For any garage which is located behind the building line of the structure, but still facing the front of the structure, architectural features such as patios, patio walls, trellis, porch roofs, overhangs, pergolas, etc. shall be used to downplay the visual impact of the garage, and to emphasize the rest of the house and front entry. (ORD. 1442)



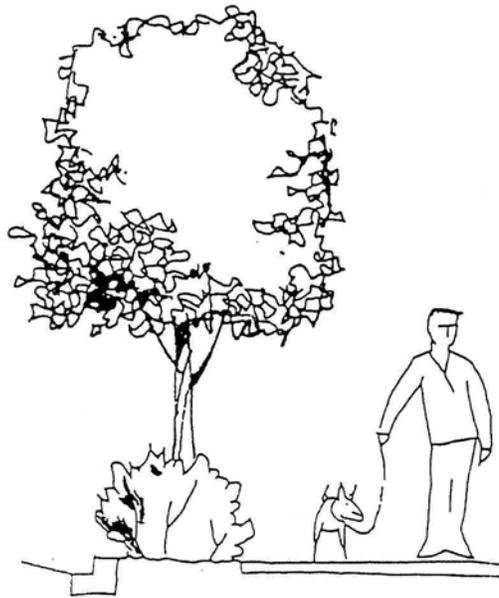
The parking may be positioned inside small courtyard areas around which the units are built. These courtyard spaces encourage socialization, defensible space, and can provide a central location for landscaping, particularly trees, which can provide an effective canopy and softening effect on the courtyard in only a few years. Vehicular access and driveways through these courtyard areas is permitted. (ORD. 1408)

- c. Commercial, office, and multi-family projects shall be built as close to the adjacent main right-of-way as practical to facilitate safe pedestrian and transit access. Reduced frontages by buildings on public right-of-ways (a, b, c, above) may be allowed due to extreme topographic (e.g., slope, creek, wetlands, etc.) conditions or compelling functional limitations, not just inconveniences or design challenges. (ORD. 1408)



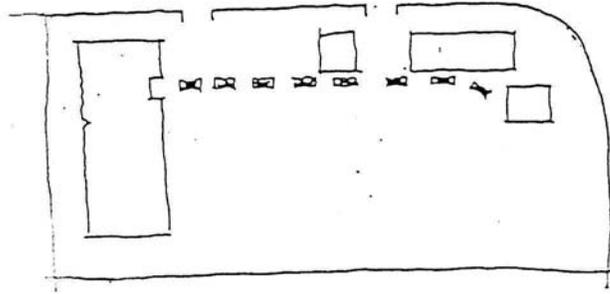
- d. Accessways, parking lots, and internal driveways shall accommodate pedestrian circulation and access by specially textured, colored, or clearly defined foot paths at least six feet wide. Paths shall be eight feet wide when abutting parking areas or travel lanes. Paths shall be

separated from parking or travel lanes by either landscaping, planters, curbs, bollards, or raised surfaces. Sidewalks in front of storefronts on the arterials and main store entrances on the arterials identified in CDC Section 85.200(A)(3)(e) shall be 12 feet wide to accommodate pedestrians, sidewalk sales, sidewalk cafes, etc. Sidewalks in front of storefronts and main store entrances in commercial/OBC zone development on local streets and collectors shall be eight feet wide.



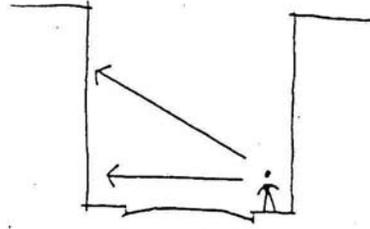
*landscaping*

- e. Paths shall provide direct routes that pedestrians will use between buildings, adjacent rights-of-way, and adjacent commercial developments. They shall be clearly identified. They shall be laid out to attract use and to discourage people from cutting through parking lots and impacting environmentally sensitive areas. (ORD. 1425)



***direct pedestrian route required (- -)***

- f. At least one entrance to the building shall be on the main street, or as close as possible to the main street. The entrance shall be designed to identify itself as a main point of ingress/egress.
- g. Where transit service exists, or is expected to exist, there shall be a main entrance within a safe and reasonable distance of the transit stop. A pathway shall be provided to facilitate a direct connection. (ORD. 1425)
- h. Projects shall bring at least part of the project adjacent to, or near the main street right-of-way in order to enhance the height-to-width ratio along that particular street. (The height-to-width ratio is an architectural term that emphasizes height or vertical dimension of buildings adjacent to streets. The higher and closer the building is, and the narrower the width of the street, the more attractive and intimate the streetscape becomes.) For every one foot in street width, the adjacent building ideally should be one to two feet higher. This ratio is considered ideal in framing and defining the streetscape. (ORD. 1425)



***1:1 height to width ratio is ideal***  
(example only)

- i. These architectural standards shall apply to public facilities such as reservoirs, water towers, treatment plants, fire stations, pump stations, power transmission facilities, etc. It is recognized that many of these facilities, due to their functional requirements, cannot readily be configured to meet these architectural standards. However, attempts shall be made to make the design sympathetic to surrounding properties by landscaping, setbacks, buffers, and all reasonable architectural means. (ORD. 1408)
- j. Parking spaces at trailheads shall be located so as to preserve the view of, and access to, the trailhead entrance from the roadway. The entrance apron to the trailhead shall be marked: "No Parking," and include design features to foster trail recognition.

C. **Compatibility between adjoining uses, buffering, and screening.**

1. In addition to the compatibility requirements contained in Chapter 24, buffering shall be provided between different types of land uses; for example, buffering between single-family homes and apartment blocks. However, no buffering is required between single-family homes and duplexes or single-family attached units. The following factors shall be considered in determining the adequacy of the type and extent of the buffer:

- a. The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier.
  - b. The size of the buffer required to achieve the purpose in terms of width and height.
  - c. The direction(s) from which buffering is needed.
  - d. The required density of the buffering.
  - e. Whether the viewer is stationary or mobile.
2. On-site screening from view from adjoining properties of such things as service areas, storage areas, and parking lots shall be provided and the following factors will be considered in determining the adequacy of the type and extent of the screening:
    - a. What needs to be screened?
    - b. The direction from which it is needed.
    - c. How dense the screen needs to be.
    - d. Whether the viewer is stationary or mobile.
    - e. Whether the screening needs to be year around.
  3. Roof top air cooling and heating systems and other mechanical equipment shall be screened from view from adjoining properties.

D. **Privacy and noise.**

1. Structures which include residential dwelling units shall provide private outdoor areas for each ground floor unit which is screened from view by adjoining units.
2. Residential dwelling units shall be placed on the site in areas having minimal noise exposure to the extent possible. Natural appearing sound barriers shall be used to lessen noise impacts where noise levels exceed the design standards of Table 1 below.  
(ORD. 1442)
3. Structures or on site activity areas which generate noise, lights, or glare shall be buffered from adjoining residential uses in

accordance with the standards in Section 55.100(C) where applicable. Businesses or activities that can reasonably be expected to generate noise shall undertake and submit appropriate noise studies and mitigate as necessary. (See Sections 55.110(B)(11) and 55.120(M).)

To protect the health, safety, and welfare of the citizens of West Linn, the following design standards are established in Tables 1 and 2. In the case of land uses that are expected to be close to adopted noise standards, follow-up studies in the first year of operation may be required by a conditional of approval or required by the Planning Director as appropriate in order to monitor compliance. (ORD. 1442)

**TABLE 1**

Allowable Sound Levels Within 25 Feet of a Dwelling

Type of Sound	7 a.m. - 7 p.m.	7 p.m. - 7 a.m.
Statistical Noise	L50 = 55 dBA	L50 = 50 dBA
	L10 = 60 dBA	L10 = 55 dBA
	L1 = 75 dBA	L1 = 60 dBA
Impulse Sound	100 dB	80 dB

(ORD. 1442)

**TABLE 2**

Center Frequency	Unweighted Sound Level	
	7 a.m. - 7 p.m.	7 p.m. - 7a.m.
31.5 Hz	68 dB	65 dB
63 Hz	65 dB	62 dB
125 Hz	61 dB	56 dB
250 Hz	55 dB	50 dB
500 Hz	52 dB	46 dB
1000 Hz	49 dB	43 dB
2000 Hz	46 dB	40 Db

4000 Hz	43 dB	37 dB
8000 Hz	40 dB	34 dB

See Chapter 2 for definitions of these terms, as sub-headings under the alphabetic category of “Noise Definitions.”

Ambient degradation associated with new noise sources. Any new commercial or industrial development to be built on a vacant or previously unused industrial or commercial site shall not cause or permit the operation of a noise source if the noise levels generated, or indirectly caused by that noise source, would increase the ambient statistical noise levels, L50 or L10, by more than 5 dBA in any one hour. In some instances, the ambient degradation standard may establish lower allowable dBA levels than those established in Table 1, and in those instances, the lower level shall apply.

Ambient noise levels shall be determined by a licensed acoustical engineer.

(ORD. 1442)

- E. **Private outdoor area.** This section only applies to multi-family projects.
  - 1. In addition to the requirements of residential living, unit shall have an outdoor private area (patio, terrace, porch) of not less than 48 square feet in area;
  - 2. The outdoor space shall be oriented towards the sun where possible; and,
  - 3. The area shall be screened or designed to provide privacy for the users of the space.
  - 4. Where balconies are added to units, the balconies shall not be less than 48 square feet, if they are intended to be counted as private outdoor areas.
  
- F. **Shared outdoor recreation areas.** This section only applies to multi-family projects and projects with 10 or more duplexes or single-family attached dwellings on lots under 4,000 square feet. In those cases, shared

outdoor recreation areas are calculated on the duplexes or single-family attached dwellings only. It also applies to qualifying PUDs under the provisions of Section 24.170. (ORD. 1463)

1. In addition to the requirements of subsection E, usable outdoor recreation space shall be provided in residential developments for the shared or common use of all the residents in the following amounts:
  - a. Studio up to and including two-bedroom units: 200 square feet per unit.
  - b. Three or more bedroom units: 300 square feet per unit.
2. The required recreation space may be provided as follows:
  - a. It may be all outdoor space; or,
  - b. It may be part outdoor space and part indoor space; for example, an outdoor tennis court and indoor recreation room; and,
  - c. Where some or all of the required recreation area is indoor, such as an indoor recreation room, then these indoor areas must be readily accessible to all residents of the development subject to clearly posted restrictions as to hours of operation and such regulations necessary for the safety of minors. (ORD. 1408)
  - d. In considering the requirements of subsection F, the emphasis shall be on *usable* recreation space. No single area of outdoor recreational space shall encompass an area of less than 250 square feet. All common outdoor recreational space shall be clearly delineated and readily identifiable as such. Small, marginal, and incidental parcels of land are not usable recreation spaces. The location of outdoor recreation space should be integral to

the overall design concept of the site and be free of hazards or constraints that would interfere with active recreation.

(ORD. 1408)

3. The shared space shall be readily observable to facilitate crime prevention and safety.

G. **Demarcation of public, semi-public, and private spaces.** The structures and site improvements shall be designed so that public areas such as streets or public gathering places, semi-public areas, and private outdoor areas are clearly defined in order to establish persons having a right to be in the space, to provide for crime prevention, and to establish maintenance responsibility. These areas may be defined by:

1. A deck, patio, fence, low wall, hedge, or draping vine;
2. A trellis or arbor;
3. A change in level;
4. A change in the texture of the path material;
5. Sign; or,
6. Landscaping.

Use of gates to demarcate the boundary between a public street and a private access driveway is prohibited. (ORD. 1463)

H. **Public transit.**

1. Provisions for public transit may be required where the site abuts an existing or planned public transit route. The required facilities shall be based on the following:
  - a. The location of other transit facilities in the area.
  - b. The size and type of the proposed development.
  - c. The rough proportionality between the impacts from the development and the required facility. (ORD. 1442)
2. The required facilities shall be limited to such facilities as the following:

- a. A waiting shelter with a bench surrounded by a three-sided covered structure, with transparency to allow easy surveillance of approaching buses.
  - b. A turnout area for loading and unloading designed per regional transit agency standards. (ORD. 1442)
  - c. Hard-surface paths connecting the development to the waiting and boarding areas.
  - d. Regional transit agency standards shall, however, prevail if they supersede these standards. (ORD. 1442)
3. The transit stop shall be located as close as possible to the main entrance to the shopping center, public or office building, or multi-family project. The entrance shall not be more than 200 feet from the transit stop with a clearly identified pedestrian link.
  4. All commercial business centers (over 3 acres) and multi-family projects (over 40 units) may be required to provide for the relocation of transit stops to the front of the site if the existing stop is within 200-400 yards of the site and the exaction is roughly proportional to the impact of the development. The commercial or multi-family project may be required to provide new facilities in those cases where the nearest stop is over 400 yards away. The transit stop shall be built per 8(b) above. (ORD. 1442)
  5. If a commercial business center or multi-family project is adjacent to an existing or planned public transit, the parking requirement may be reduced by the multiplier of .9 or ten percent. If a commercial center is within 200 feet of a multi-family project, with over 80 units and pedestrian access, the parking requirement may be reduced by ten percent or by a .90 multiplier. (ORD. 1425)
  6. Standards of Section 85.200(D), "Transit Facilities," shall also apply.

I. **Public facilities.**

An application may only be approved only if adequate public facilities will be available to provide service to the property prior to occupancy. (ORD.1544)

1. **Streets.** Sufficient right-of-way and slope easement shall be dedicated to accommodate all abutting streets to be improved to City's Improvement Standards and Specifications. The City Engineer shall determine the appropriate level of street and traffic control improvements to be required, including any off-site street and traffic control improvements based upon the transportation analysis submitted. The City Engineer's determination of developer obligation, the extent of road improvement and City's share, if any, of improvements and the timing of improvements shall be made based upon the City's systems development charge ordinance and capital improvement program, and the rough proportionality between the impact of the development and the street improvements. (ORD. 1442) (ORD. 1526)

In determining the appropriate sizing of the street in commercial, office, multi-family, and public settings, the street should be the minimum necessary to accommodate anticipated traffic load and needs and should provide substantial accommodations for pedestrians and bicyclists. Road and driveway alignment should consider and mitigate impacts on adjacent properties and in neighborhoods in terms of increased traffic loads, noise, vibrations, and glare. (ORD. 1442)

The realignment or redesign of roads shall consider how the proposal meets accepted engineering standards, enhances public safety, and favorably relates to adjacent lands and land uses. Consideration should also be given to selecting an alignment or

design that minimizes or avoids hazard areas and loss of significant natural features (drainageways, wetlands, heavily forested areas, etc.) unless site mitigation can clearly produce a superior landscape in terms of shape, grades, reforestation, and is fully consistent with applicable code restrictions regarding resource areas.

Streets shall be installed per Chapter 85 standards. City Engineer has the authority to require that street widths match adjacent street widths. Sidewalks shall be installed per Section 85.200(A)(3)(e) for commercial and office projects, and Sections 85.200(A)(16) and 92.010(H) for residential projects, and applicable provisions of Chapter 55, Design Review.

Based upon the City Manager or Manager's designee determination, the applicant shall construct or cause to be constructed, or contribute a proportionate share of the costs, for all necessary off-site improvements identified by the transportation analysis commissioned to address CDC 55.125 that are required to mitigate impacts from the proposed development. Proportionate share of the costs shall be determined by the City Manager or Manager's designee who shall assume that the proposed development provides improvements in rough proportion to identified impacts of the development. (ORD. 1544)

2. Drainage. A registered civil engineer shall prepare a plan and statement which shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity of runoff off site or the plan and statement shall identify all off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine off site impacts from a 25-year storm. The City Engineer shall adjust storm drainage facilities for applications which contain permeable

parking surfaces based upon a quantitative analysis of the increased water retention and water quality characteristics of the permeable parking surface. (ORD. 1463)

Catch basins shall be installed and connected to pipelines leading to storm sewers or drainageways.

All plans will then be reviewed by the City Engineer.

3. Municipal water. A registered civil engineer shall prepare a plan for the provision of water which demonstrates to City Engineer's satisfaction, the availability of sufficient volume, capacity, and pressure to serve the proposed development's domestic, commercial, and industrial fire flows. All plans will then be reviewed by the City Engineer.
4. Sanitary sewers. A registered civil engineer shall prepare a sewerage collection system plan which demonstrates sufficient on-site capacity to serve the proposed development. The City Engineer shall determine whether the existing City system has sufficient capacity to serve the development.
5. Solid waste and recycling storage areas. Appropriately sized and located solid waste and recycling storage areas shall be provided. Metro standards shall be used.

J. **Crime prevention and safety/defensible space.**

1. Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants.
2. Interior laundry and service areas shall be located in a way that they can be observed by others.
3. Mail boxes, recycling, and solid waste facilities shall be located in lighted areas having vehicular or pedestrian traffic.
4. The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime.
5. Light fixtures shall be provided in areas having heavy pedestrian

or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps, and abrupt grade changes.

6. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person. All commercial, industrial, residential, and public facility projects undergoing design review shall use low or high pressure sodium bulbs and be able to demonstrate effective shielding so that the light is directed downwards rather than omni-directional. Omni-directional lights of an ornamental nature may be used in general commercial districts only.
7. Lines of sight shall be reasonably established so that the development site is visible to police and residents.
8. Security fences for utilities (e.g., power transformers, pump stations, pipeline control equipment, etc.) or wireless communication facilities may be up to eight feet tall in order to protect public safety. No variances are required regardless of location. (ORD. 1408)

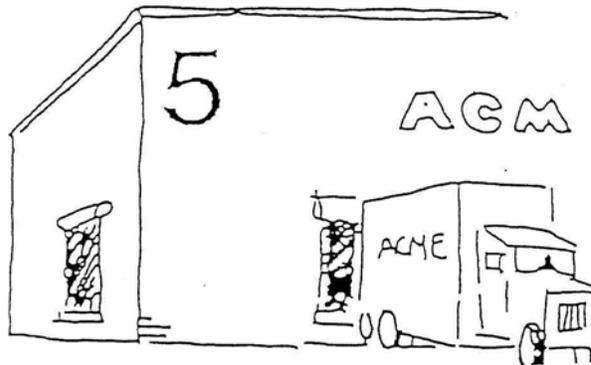
K. **Provisions for persons with disabilities.**

1. The needs of a person with a disability shall be provided for. Accessible routes shall be provided between all buildings and accessible site facilities. The accessible route shall be the most practical direct route between accessible building entries, accessible site facilities, and the accessible entry to the site. An accessible route shall connect to the public right-of-way to at least one on-site or adjacent transit stop (if the area is served by transit). All facilities shall conform to, or exceed, the Americans with Disabilities Act (ADA) standards, including those included in the Uniform Building Code.

L. **Signs.**

1. Based on considerations of crime prevention and the needs of

emergency vehicles, a system of signs for identifying the location of each residential unit, store, or industry shall be established.



***buildings shall be numbered for emergency identification***

2. The signs, graphics, and letter styles shall be designed to be compatible with surrounding development, to contribute to a sense of project identity, or, when appropriate, to reflect a sense of the history of the area and the architectural style.
  3. The sign graphics and letter styles shall announce, inform, and designate particular areas or uses as simply and clearly as possible.
  4. The signs shall not obscure vehicle driver's sight distance.
  5. Signs indicating future use shall be installed on land dedicated for public facilities (e.g. parks, water reservoir, fire halls, etc.).
  6. Signs and appropriate traffic control devices and markings shall be installed or painted in the driveway and parking lot areas to identify bicycle and pedestrian routes.
- M. **Utilities**. The developer shall make necessary arrangements with utility companies or other persons or corporations affected for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting, and cable television, shall be placed underground, as practical. The design standards of Tables 1 and 2 above, and of sub-section 5.484(C) of the West Linn Municipal Code relative to existing high ambient noise levels shall apply

to this section. (ORD. 1442)

- N. **Wireless Communication Facilities (WCF)**. This section only applicable to WCFs.) WCFs as defined in CDC Chapter 57 may be required to go through Class I or Class II design review. The approval criteria for Class I design review is that the visual impact of the WCF shall be minimal to the extent allowed by CDC Chapter 57. Stealth designs shall be sufficiently camouflaged so that they are not easily seen by passersby in the public right-of-way or from any adjoining residential unit. WCFs that are classified as Class II design review must respond to all of the approval criteria of this chapter.

O. **Refuse and Recycling Standards**

1. All commercial, industrial and multifamily developments over five units requiring Class II Design Review shall comply with the standards set forth in these provisions. Modifications to these provisions may be permitted if the Planning Commission determines that the changes are consistent with the purpose of these provisions and the City receives written evidence from the local franchised solid waste and recycling firm that they are in agreement with the proposed modifications.
2. Compactors, containers, and drop boxes shall be located on a level Portland Cement concrete pad, a minimum of four (4) inches thick, at ground elevation or other location compatible with the local franchise collection firm's equipment at the time of construction. The pad shall be designed to discharge surface water runoff to avoid ponding.
3. Recycling and solid waste service areas:
  - a. Recycling receptacles shall be designed and located to serve the collection requirements for the specific type of material.
  - b. The recycling area shall be located in close proximity to

the garbage container areas and be accessible to the local franchised collection firm's equipment.

c. Recycling receptacles or shelters located outside a structure shall have lids and be covered by a roof constructed of water and insect resistive material. The maintenance of enclosures, receptacles and shelters is the responsibility of the property owner.

d. The location of the recycling area and method of storage shall be approved by the local fire marshal.

e. Recycling and solid waste service areas shall be at ground level and/or otherwise accessible to the franchised solid waste and recycling collection firm.

f. Recycling and solid waste service areas shall be used only for purposes of storing solid waste and recyclable materials and shall not be a general storage area to store personal belongings of tenants, lessees, property management or owners of the development or premises.

g. Recyclable material service areas shall be maintained in a clean and safe condition.

#### 4. Special Wastes or Recyclable materials

a. Environmentally hazardous wastes defined in ORS 466.005 shall be located, prepared, stored, maintained, collected, transported, and disposed in a manner acceptable to the Oregon Department of Environmental Quality.

b. Containers used to store cooking oils, grease or animal renderings for recycling or disposal shall not be located in the principal recyclable materials or solid waste storage areas. These materials shall be stored in a separate storage area designed for such purpose.

5. Screening and Buffering

a. Enclosures shall include a curbed landscape area at least three (3) feet in width on the sides and rear.

Landscaping shall include, at a minimum, a continuous hedge maintained at a height of 36 inches.

b. Placement of enclosures adjacent to residentially zoned property and along street frontages is strongly discouraged. They shall be located so as to conceal them from public view to the maximum extent possible.

c. All dumpsters and other trash containers shall be completely screened on all four sides with an enclosure that is comprised of a durable material such as masonry with a finish that is architecturally compatible with the project. Chain link fencing, with or without slats, will not be allowed.

6. Litter receptacles.

a. Location. Litter receptacles may not encroach upon the minimum required walkway widths.

b. Litter receptacles may not be located within public right-of-ways except as permitted through an agreement with the City in a manner acceptable to the City Attorney or his/her designee.

c. Number. The number and location of proposed litter receptacles shall be based on the type and size of the proposed uses. However, at a minimum, for non-residential uses, at least one (1) external litter receptacle shall be provided for every 25 parking spaces for first 100 spaces, plus one (1) receptacle for every additional 100 spaces.

**55.110 THE SITE ANALYSIS**

The site analysis shall include:

- A. A vicinity map showing the location of the property in relation to adjacent properties, roads, pedestrian and bike ways, transit stops and utility access.
- B. A site analysis on a drawing at a suitable scale (in order of preference 1" = 10' to 1" = 30') which shows:
  - 1. The parcel boundaries, dimensions, and gross area.
  - 2. Contour lines at the following minimum intervals:
    - a. Two-foot intervals for slopes from 0-25 percent; and,
    - b. Five- or ten-foot intervals for slopes in excess of 25 percent.
  - 3. A slope analysis which identifies portions of the site according to the slope ranges as follows:
    - a. 0-5 percent;
    - b. 5-15 percent;
    - c. 15-25 percent;
    - d. 25-35 percent;
    - e. 35-50 percent;
    - f. 50 percent or more.
  - 4. The location and width of adjoining streets.
  - 5. The drainage patterns and drainage courses on the site and on adjacent lands.
  - 6. Potential natural hazard areas including:
    - a. Flood plain areas;
    - b. Areas subject to a high-water table;

- c. Landslide areas; and,
  - d. Areas having a high erosion potential.
7. Resource areas including:
- a. Marsh and wetland areas.
  - b. Wildlife habitat areas identified by the City in its Comprehensive Plan.
8. The site features including:
- a. Large rock outcroppings;
  - b. Areas having unique views; and,
  - c. Streams and stream corridors.
9. Potential historic landmarks and registered archaeological sites. The existence of such sites on the property shall be verified from records maintained by the Planning Department and other recognized sources.
10. The location of trees having a six-inch caliper at five feet and where the site is heavily wooded, an aerial photograph at the same scale as the site analysis may be submitted and only those trees that will be affected by the proposed development need be sited accurately; (e.g., construction activity within the dripline of the trees). All significant trees and tree clusters identified by the City Arborist using the criteria of CDC Section 55.100(B)(2) and all heritage trees, shall be delineated. Trees on non-Type I and II land shall have their "dripline plus 10 feet" protected area calculated per CDC Section 55.100(B)(2) and expressed in square feet, and also as a percentage of total non-Type I and II area.
11. Existing ambient noise levels shall be determined in the case of proposed land uses which may be reasonably expected to generate noise (e.g., automotive related uses), and for previously unused sites as described by DEQ. The determination of those levels shall be consistent with current DEQ standards. (ORD. 1442)

12. Identification information including the name and address of the owner, developer, and project designer and a lineal scale and north arrow.
13. Identify Type I and II lands in map form. Provide a table which identifies square footage of Type I and II lands also as percentage of total site square footage.

**55.120 THE SITE PLAN**

The site plan shall be at the same scale as the site analysis (Section 55.110) and shall show:

- A. The applicant's entire property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development and adjacent property and development.
- B. Boundary lines and dimensions for the perimeter of the property and the dimensions for all proposed lot lines, section lines, corners, and monuments.
- C. The location of at least one temporary benchmark and contours as provided by Section 55.110(B)(3).
- D. Streams and stream corridors.
- E. Identification information, including the name and address of the owner, developer, and project designer and a lineal scale and north arrow.
- F. The location, dimensions, and names of all:
  1. Existing and platted streets and other public ways and easements on adjacent property and on the site;
  2. Proposed streets or other public ways, easements, on the site.
- G. The location, dimensions and setback distances of all:
  1. Existing structures, improvements, and utility facilities on adjoining properties;
  2. Existing structures, improvements, and utility facilities to remain on the site;
  3. Proposed structures, improvements, and utility facilities on the

site.

- H. The location and dimensions of:
  - 1. The entrances and exits to the site;
  - 2. The parking and circulation areas;
  - 3. Loading and service areas for waste disposal, loading, and delivery;
  - 4. Pedestrian and bicycle circulation areas;
  - 5. On-site outdoor recreation spaces and common areas;
  - 6. All utilities; and,
  - 7. Sign locations.
  
- I. The location of areas to be landscaped.
- J. The location and type of outdoor light with specific consideration given to crime prevention. A light coverage plan shall be provided.
- K. The orientation of structures showing the location of windows and doors.
- L. The location of mail boxes.
- M. Submit an engineering noise control plan by a licensed acoustical engineer to satisfy appropriate noise standards, identified in CDC Section 55.100(D)(3), in cases where proposed land use can reasonably be expected to generate noise (e.g., automotive related uses) or, in cases where it is required by the provisions of the West Linn Community Development Code. (ORD. 1442)

**55.125 TRANSPORTATION ANALYSIS**

Certain development proposals required that a Traffic Impact Analysis (TIA) be provided which may result in modifications to the site plan or conditions of approval to address or minimize any adverse impacts created by the proposal. The purpose, applicability and standards of this analysis are found in CDC Section 85.170. B.2. (ORD 1584)

**55.130 GRADING PLAN**

The grading and drainage plan shall be at the same scale as the site analysis

(Section 55.110) and shall include the following:

- A. The location and extent to which grading will take place indicating general contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed.
- B. Plans and statements to demonstrate the ability of the project to meet Appendix 33 requirements of the Uniform Building Code. (ORD. 1463)
- C. A registered civil engineer shall prepare a plan and statement that shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity of runoff off site, or the plan and statement shall identify all off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine the off-site impacts from a 10-year storm.
- D. Storm detention and treatment plans may be required.
- E. Identification, information, including the name and address of the owner, developer, project designer, and the project engineer.

**55.140 ARCHITECTURAL DRAWINGS**

This section does not apply to single-family residential subdivisions or partitions, or up to two duplexes or single-family attached dwellings. (ORD. 1408)

Architectural drawings shall be submitted showing:

- A. Building elevations and sections tied to curb elevation;
- B. Building materials: color and type;
- C. The name of the architect or designer.

**55.150 THE LANDSCAPE PLAN**

This section does not apply to detached single-family residential subdivisions or partitions, or up to two duplexes or single-family attached dwellings.

(ORD. 1408)

- A. The landscape plan shall be prepared and shall show the following:
  - 1. Preliminary underground irrigation system. (ORD. 1408)
  - 2. The location and height of fences and other buffering of screening materials.

3. The location of terraces, decks, patios, shelters, and play areas.
  4. The location, size, and species of the existing and proposed plant materials.
  5. Building and pavement outlines.
- B. The landscape plan shall be accompanied by:
1. The erosion controls that will be used, if necessary.
  2. Planting schedule.
  3. Supplemental information as required by the Planning Director or City Arborist. (ORD. 1408)

**55.170 EXCEPTIONS TO UNDERLYING ZONE, YARD, PARKING, SIGN PROVISIONS, AND LANDSCAPING PROVISIONS**

- A. The Planning Director may grant an exception to the dimensional building setback or yard requirements in the applicable zone based on findings that the approval will satisfy the following criteria:
1. A minor exception that is not greater than 20 percent of the required setback.
  2. A more efficient use of the site.
  3. The preservation of natural features that have been incorporated into the overall design of the project.
  4. No adverse affect to adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazard.
  5. Safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.
- B. The Planning Director may grant an exception to the off-street parking dimensional and minimum number of space requirements in the applicable zone so long as the following criteria is met:
1. The minor exception is not greater than 10 percent of the required parking;
  2. The application is for a use designed for a specific purpose which is intended to be permanent in nature (for example, a nursing

- home) and which has a low demand for off-street parking; or,
3. There is an opportunity for sharing parking and there is written evidence that the property owners are willing to enter into a legal agreement; or,
  4. Public transportation is available to the site reducing the standards and will not adversely affect adjoining uses, and there is a community interest in the preservation of particular natural feature(s) of the site which make it in the public interest to grant an exception to parking standards.
- C. The Planning Director may grant an exception to the sign dimensional requirements in the applicable zone when the following criteria is met:
1. The minor exception is not greater than 10 percent of the required applicable dimensional standard for signs;
  2. The exception is necessary for adequate identification of the use on the property; and,
  3. The sign will be compatible with the overall site plan, the structural improvements, and with the structures and uses on adjoining properties.
- D. The Planning Director may grant an exception to the landscaping requirements in the applicable zone based on findings that the following criteria will be met:
1. A minor exception that is not greater than 10 percent of the required landscaped area.
  2. A more efficient use of the site.
  3. The preservation of natural features that have been incorporated into the overall design of the project.
  4. No adverse effect to adjoining property.

**55.180 MAINTENANCE**

All on-site improvements shall be the ongoing responsibility of the property owner or occupant.

**55.190**

**SHARED OPEN SPACE**

Where the open space is designated on the plan as common open space, the following shall apply:

- A. The open space area shall be shown on the final plan and recorded with the Planning Director.
- B. The open space shall be conveyed in accordance with one of the following methods:
  - 1. By dedication to the City as publicly owned and maintained as open space. Open space proposed for dedication to the City must be acceptable to it with regard to the size, shape, location, improvement, and budgetary and maintenance limitations.
  - 2. By leasing or conveying title (including beneficial ownership) to a corporation, home association, or other legal entity with the City retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions suitable to the City Attorney for guaranteeing the following:
    - a. The continued use of such land for intended purposes.
    - b. Continuity of property maintenance.
    - c. When appropriate, the availability of funds required for such maintenance.
    - d. Adequate insurance protection.
    - e. Recovery for loss sustained by casualty and condemnation, or otherwise.
  - 3. By any method that achieves the objectives set forth in (2) above.

**55.195**

**ANNEXATION AND STREET LIGHTS**

As a condition of approval for design review for any project that is being annexed to the City, the developer and/or homeowners' association shall pay for all expenses related to street light energy and maintenance costs until annexed into the City. The approval for any property annexed must state: "This approval is

contingent on voter approval of annexation of the subject property.” This means that no permit, final plat, or certificate of occupancy may be issued or approved until annexation is complete. (ORD. 1442)

LAND USE CATEGORY	MINIMUM REQUIRED BICYCLE PARKING SPACES	MINIMUM COVERED AMOUNT
<b><u>Residential</u></b>		
Multi-family residential - general	1 space per unit (excluding those multi-family units with garages)	50%
Multi-family residential - 55 years physical disab.		0%
<b><u>Institutional</u></b>		
Schools – Elementary	2 spaces per classroom	50%
Schools - Jr Hi or Middle Schools	3 spaces per classroom	50%
Schools - Sr High	3 spaces per classroom	50%
College	1 space per 4 students	50%
Transit Centers/Park & Ride Lots	5% of auto spaces, or 100% of demand, depending on location/accessibility to bicyclists	100%
Religious Institutions	1 space per 40 seat capacity	25%
Hospitals	1 space per 5 beds	50%
Doctor, Dentist Offices	2, or 0.5 space per 1000 gross sq. ft., whichever is greater	25%
Libraries, Museums, etc.	2, or 1.5 spaces per 1000 gross sq. ft., whichever is greater	25%
<b><u>Commercial</u></b>		
Retail Sales	0.33 space per 1000 gross sq. ft.	50%
Auto-oriented Services (including 7-11s)	2, or .33 space per 1000 gross sq. ft., whichever is greater	10%
Groceries/Supermarkets	0.33 space per 1000 gross sq. ft.	10%
Office	2, or 0.5 space per 1000 gross sq. ft., whichever is greater	10%
Quality Restaurant	1 space per 1000 gross sq. ft.	25%
Drive-in Restaurant	2 space per 1000 gross sq. ft.	25%
Shopping Center (by size)	0.33 space per 1000 gross sq. ft.	50%
Financial Institutions	2, or 0.33 space per 1000 gross sq. ft.	25%
Theaters, Auditoriums, etc.	1 space per 30 seats	25%
<b><u>Industrial</u></b>		
Industrial Park	2, or 0.5 space per 1000 gross sq. ft.	50%
Warehouse	2, or 0.1 space per 1000 gross sq. ft.	50%
Manufacturing, etc.	2, or 0.15 space per 1000 gross sq. ft.	50%

(AMENDED PER ORD. 1474, 9/01; 1544 1.07; 1547 2/07; 1565 4/08; 1584 12/08)



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## **56.000 PARKS AND NATURAL AREA DESIGN REVIEW**

### **56.010 PURPOSE AND INTENT - GENERAL**

The purpose of the parks and natural area design review provisions is to establish a process and standards for the review of park and natural area development proposals to ensure that the intent of the Parks Master Plan is satisfied and the planned program needs of the different classes of parks and natural areas are respected and provided for. Attention will be paid to the proposal's scale, layout and design, its compatibility with the natural environment and the surrounding neighborhood. Compliance with the Transportation Planning Rule (TPR) will be encouraged but not to the point of diminution of, or adverse impacts on, the natural resource areas or the functionality of the park.

### **56.015 DEFINITIONS**

There are eight categories of park and natural resource facilities as established in the Parks Master Plan. The categories are:

1. Active-oriented parks
2. Passive-oriented parks
3. Mini-parks
4. Special use areas
5. Linear parks/open space
6. City beautification areas
7. Pathways and trails
8. Natural resource areas

Active-oriented parks. An active-oriented park's primary focus is providing playing fields and other facilities that can be used for team and individual sports and activities. Active-oriented parks are intended to serve a large area. As a result, it will require more support facilities such as restrooms, playgrounds, shelters and parking.

Passive-oriented parks. Passive-oriented parks focus is upon unstructured play, relaxation, family picnics and similar activities. These parks are often within walking or biking distance of most users; the activities they

support often become a daily pastime for neighborhood children. Support facilities, such as covered picnic or play areas, etc. are discouraged unless the facilities of a more community wide nature are included at the park.

Special use areas. Special use areas are public recreation areas occupied by a single purpose facility or contain activities that do not fall into the other categories. In West Linn, typical examples include the McLean House and the City's boat ramps. Another example might be an enclosed leash free dog park. Design of these facilities should be specific to the needs of that facility and intended user group. These uses are not considered essential to the development of a basic parks inventory and should only be considered when full cost benefit analysis and understanding of operation and maintenance costs are understood and justified.

Linear parks/Open Space. Linear parks are open space areas that often bring together patchworks of city-owned lands, stream corridors, and right-of-ways to create a linear facility whose primary goal is to provide a passive recreation experience.

Limited facilities such as benches and picnic tables may be provided, but these parks are primarily designed as corridors for trails, bike and pedestrian paths. The TPR is often well served by these bike and pedestrian paths. Linear parks also provide important visual relief from the built environment. Given their physical and visual accessibility, and the fact that they can extend long distances through the community and used by many neighborhoods, linear parks can be one of the best investments that cities can make. Ideally, they will be at least 100-200 feet wide; however, critical linkages in the system can be as narrow as 10-20 feet if that's what it takes to make the connection. Trailheads at the termini of the park are helpful as are trailheads at regular intervals along the length of the linear park.

City beautification areas and public spaces. City beautification areas are intended to provide for the aesthetic needs of the residents. Rather than a

physical experience, these areas provide a visual experience. They can take the form of landscaped entryways to the city, landscaped medians, or street corners. Expanding beyond that definition and the expectations of the Parks Master Plan, this park category shall also include public spaces, such as plazas and squares, where the emphasis is on outdoor concerts, farmers markets, street fairs, and socialization.

Pathways and trails. Pathways and trails may be incorporated into park facilities, but may also be “stand alone” facilities in open space.

Communities provide urban paths and trails for their recreational value as well as their value as part of a community’s commitment to the TPR.

Trails and paths should be developed to provide linkages between schools, parks, neighborhoods, and the community and even integrate with regional trail systems. An example would be the trails and paths that crisscross the Tanner Basin neighborhood of West Linn and make it possible for children to access school on foot or bicycle in relative safety.

Rudimentary gravel foot trails can be 3 to 6 feet wide. Paths in high use areas should be in the 4- to 10-foot width range and paved. In neighborhoods that are built up with limited space to accommodate the paths or trails, reduced widths and non-traditional designs are encouraged if the alternative is no trail or path at all. Emphasis on providing routes that follow the cognitive patterns of residents is important. Surveillance potential and defensible space are also important considerations.

Natural resource areas. The primary focus is on the long-term protection of natural areas. These natural areas can come in the form of natural drainage ways, creeks, wetlands, river greenway areas, habitat protection areas, steep hillsides, significant tree clusters or plant materials, or where the preservation of an open space area provides a visual relief from the images of the built and urbanized environment.

Since the emphasis is upon the protection of the resource, the facilities should be limited. Typically, these facilities include interpretive centers, restrooms, trails, vehicular access, and parking lots. Active recreation

facilities, such as organized playing fields, are discouraged. They should only be accommodated if the park is large enough and there is adequate separation between the activity area and the natural resource. At all times, the central philosophy is deference to the natural resource over human needs.

**56.020 APPLICABILITY**

- A. This chapter applies to the development of all new parks and natural resource areas. It also applies to changes including the introduction of new facilities and major repairs at existing parks and natural resource areas. No work, except as exempted in CDC 56.025, may take place in these parks and natural resource areas without first obtaining a permit through this chapter and through the appropriate decision-making body. CDC Chapter 55, Design Review, shall not apply to park development or structures or facilities in parks. Unless specifically exempted by this chapter, all relevant CDC chapters shall apply.
- B. There are two classes of Park Design Review--Class I and Class II. Class I Park Design Review applies to minor changes to park facilities. It is reasonable and appropriate that a simpler but more focused set of standards shall apply. Class II Park Design Review applies to the development of any new park or significant changes to an existing park or natural area. The specific submittal standards and approval criteria are explained in Sections 56.070 through 56.100.
- C. Class I Design Review. The following is a non-exclusive list of Class I Design Review activities or facilities.
  - 1. New sidewalks, if over 200 feet long (see Section 56.025).
  - 2. New trails, if over 200 feet long (see Section 56.025).
  - 3. New paths, if over 200 feet long (see Section 56.025).
  - 4. Additional recreation amenities or facilities including playground equipment, picnic shelters, and playing fields

so long as those facilities are consistent with the program established for the park and the impacts are expected to be minor. (An example of program consistency would be Class I Design Review of a proposal to add two more swing sets at an active-oriented park, conversely, it would be a Class II if the proposal would add swing sets in a natural resource area.)

5. Fences and walls, over 200 feet long (see Section 56.025).
6. Addition or reduction of less than 10 percent of total square footage of an existing building so long as there is no encroachment towards a resource area.
7. Minor road realignment under 200 feet long. Realignment must not come closer to any existing resource area than it currently is.
8. Ten percent additions or reduction of parking stalls so long as required minimum number of spaces is still met.
9. Major modification of a landscape plan (including water features, ponds, pergolas, arbors, artwork, sculptings, etc). Replacement of one type of flowers with another or tree planting would not have to go through review.
10. Minor modifications and/or minor upgrades or repairs of public or private utilities in the park or resource area. Any proposed excavation or grading within a drainageway will require Class I review and will be covered with a natural drainageway permit. Emergency repairs, authorized by the City Manager, would be exempt from this chapter per section 56.025. Post emergency site restoration or mitigation would, however, be required.
11. Americans with Disability Act (ADA) compliance (e.g., ramps and paths) is exempt when the improvement is outside of a natural resource area per section 56.025.

Construction of ADA accessible interpretive paths and related facilities in natural resource areas shall go through Class I Design Review.

12. Freestanding art and statuary under five feet tall.
13. The addition or removal of a park or natural open space facility or site feature. This could involve, for example, the elimination of a softball diamond.
14. Other land uses and activities may be added if the Planning Director makes written findings that the activity/use will not increase impacts to any nearby resource area, abutting residential property, does not conflict with the program established for the specific park or natural resource area/open space, and is consistent with the type and/or scale of activities/uses listed above.

D. Class II Design Review. The following is a non-exclusive list of Class II Parks Design Review activities or facilities:

1. Site preparation for, and/or development of a new park or natural area.
2. Outward expansion of an existing park or natural area.
3. Addition or reduction of more than 10 percent of total square footage of an existing building, including any dimensional change if it would result in encroachment towards a natural resource area.
4. Any program change that results in a change in the function and classification of the park or resource area (e.g., from active park with playing fields to passive park with no playing fields. Any change that puts park program at odds with, or in violation of, Parks Master Plan).
5. Any change or proposed development, which by its scale or scope of work, requires that a full and comprehensive

review be undertaken in the public forum. See  
“Exemptions” for buildings over 10,000 square feet.

## **56.025 EXEMPTIONS**

The provisions of this chapter exempt the following activities from review:

1. Architectural or other replacement in-kind. An example would be replacing a composition roof on a picnic shelter with a new composition roof. Replacing the grass turf of a playing field with synthetic turf would be an example of “other” replacement-in-kind. Also exempt is replacement in-kind of building materials that are equal or superior to existing materials (for example, replacing T-111 wood siding with cedar lap siding or brick or replacing a gravel path with an asphalt path). For buildings, the replacement in kind cannot constitute more than 50 percent of the valuation of the structure, if it does, then Class I or II Design Review is required, depending on the size of the building (e.g., a 10 X 7 foot tool shed would be Class I). The Planning Director shall make the initial code interpretation. This interpretation is reviewable and amendable by the Planning Commission.
2. Changes in color schemes, wall art, and freestanding statuary or art under five feet tall are exempt from design review, but shall be subject to Planning Director review under the provisions of CDC Section 99.060(A)(2), Prescribed Conditions, with consideration of Section 56.100(C)(5)(a-b). No published findings or notice are required.
3. Revision to parking alignment or circulation so long as it only involves re-striping or painting new directional arrows. These changes will be subject to Section 99.060(A)(2).
4. ADA facilities, such as access ramps and modifications to accessways to improve accessibility, outside of resource areas are exempt.

5. Removal of ivy and other invasive vegetation, such as from trees, and elsewhere, including in natural resource areas.
6. Construction of new sidewalks, paths, and trails that are less than 200 feet long and do not intrude into natural resource areas (NRA). If they intrude in NRA, then Class I Parks Design Review is required.
7. Emergency repairs or maintenance. The City Manager, or designee, shall make the determination that emergency conditions exist. All necessary restoration, mitigation or permitting, as required by this chapter, shall be undertaken by responsible parties once the emergency period has ended.
8. Installation of directional or interpretive signs shall be exempt from this chapter, but must address the provisions of CDC Chapter 52 as required.
9. Transit shelters.
10. Fences and walls up to 200 feet long. If a fence is in a NRA, then Class I Parks Design Review is required.
11. Changing sports programs from one sport to another at an existing sports field or facility.
12. Minor changes to park landscaping such as replacement of one type of flowers or groundcover with another or planting trees.
13. Buildings or structures over 10,000 square feet shall be exempt from review under this chapter. Buildings or structures over 10,000 square feet shall go through review of CDC Chapter 55. (Parkland on which the building is sited will still go through review of this chapter.)

<b>Exemptions (56.025)</b>	<b>Class I (56.020(C))</b>	<b>Class II (56.020(D))</b>
Sidewalks, paths, sidewalks, walls and fences up to 200 ft. long outside of the natural resource area (NRA).	Sidewalks, paths, sidewalks, walls and fences over 200 ft. long and all those within NRA.	Development of a park or park facility and all other major construction projects.
Architectural or other “replacement in kind.” Substituting one sports program for another.	Addition or elimination of a park facility (e.g., baseball diamond).	Program changes to park that results in it being re-classified as a different type of park.
Color changes.	Additional playground equipment.	
Minor road realignment under 200 feet long outside of NRA.	Minor road re-alignment of over 200 feet and all work in NRA.	
Revisions to circulation and parking layout.	Ten percent increase or decrease in building size.	Over ten percent increase in building size.
Up to 10% change in parking lot.		
Directional and interpretive signs.	Over 10% increase or decrease in parking lot.	
ADA compliance outside of NRA.	ADA compliance in resource area.	
Emergency repairs.	Art under 5 feet tall.	Art over 5 feet tall.
Minor landscape plan modification. Ivy removal.	Major landscape plan modification.	
Transit Shelters.		
Buildings over 10,000 sq. ft. (CDC Ch. 55 applies)		

**56.030 ADMINISTRATION AND APPROVAL PROCESS**

- A. A pre-application conference is required before submitting a development plan application for design review as provided by Sections 99.030(B).
- B. The application shall be submitted by the record owner(s) of the property, or authorized agent. For City applications, the City Manager shall submit the application.

- C. Action on the development plan application shall be as provided by CDC Chapter 99, Procedures for Decision-Making: Quasi-Judicial, and the following:
  - 1. The Planning Director for Class I Parks Design Review applications or the Planning Commission for Class II Parks Design Review applications, shall approve, approve with conditions, or deny the application based on findings related to the applicable criteria set forth in Section 99.110 and this chapter.
  - 2. A decision by the Planning Director shall be reviewed by the City Council if the case is appealed.
- D. Significant changes to the approved development plan will require re-application per CDC section 56.050. Significant changes are defined as more than a 10% modification in the design or footprint of a structure or any design that brings the use (e.g., playing field, sidewalk, etc.) closer to a natural resource area or a neighboring home. Minor changes to the design or proposal that are mandated by new state, federal or local laws, engineering standards or building codes, are not deemed significant.

**56.040 EXPIRATION OF APPROVAL**

If substantial construction, as defined in CDC chapter 2, has not occurred within three years from the date of approval of the development plan, the approved proposal will be void. Phased improvements to a park or natural area, with clearly stated timeline, are permitted under the provisions of CDC 56.060. However, substantial construction of the final phased improvement must be begun within five years of the original approval date.

**56.050 DESIGN REVIEW AMENDMENT TRIGGER**

- A. When significant changes are made to the approved development plan, then a re-application to the appropriate decision making

authority shall be required. A non-exclusive list of examples of significant changes are as follows:

1. Major re-alignment of the roads, especially if the road moves closer to the NRA or nearby homes.
  2. Relocation of the parking lot.
  3. A shift in the high activity area, such as a soccer field, from one part of the park to an area that was not planned to have such a high intensity use. Substituting equal-level intensity uses is not significant (e.g., replacing a soccer area with a softball area).
  4. A revised lighting scheme that would illuminate an area that was not expected to be illuminated shall be deemed a significant change.
  5. Any existing or planned activity or structure that is moved closer to a natural resource area.
  6. More than 10 percent increase in the building footprint.
  7. Significant changes to the architecture that modify the style, mass, or result in elimination of significant design features.
  8. Changes in color or materials using non-approved or non-earth tones and/or the use of materials of poorer quality (for example, going from tile roof to composition roofing).
- B. Changes to the project/site plan to meet conditions of approval, federal, state, or metro legislative changes, or new building code requirements shall not trigger an amendment.

**56.060 PHASED DEVELOPMENT**

The applicant may elect to develop the site in phases, also known as stages. The applicant shall delineate the boundaries of the phases on a map and provide a narrative that explains what improvements or facilities can be expected with each phase and when development for each phase is to be initiated. The decision-making authority must approve phased

development with a clearly stated timeline for each phase, per the provisions of Section 99.125. Once work on a phase is initiated by the approved timeline, it is not necessary that all the work of that phase be completed by the timeline date so long as reasonable progress is being made.

**56.070 SUBMITTAL REQUIREMENTS**

- A. The design review application shall be initiated by the Parks Director.
- B. A pre-application conference shall be a pre-requisite to the filing of an application.
  - 1. The Planning Director shall explain the applicable policies, ordinance provisions, opportunities and constraints, which may be applicable to the site and type of proposed development. The Planning Director shall determine which class of park design review is required.
  - 2. The following subjects shall be reviewed at the pre-application conference:
    - a. Identification of the proposed park classification (e.g., active- or passive-oriented park).
    - b. The appropriate facilities and programs that should be provided according to the park classification.
    - c. The physical and visual accessibility of the site.
    - d. The parcel's location and size, the Comprehensive Plan, zoning, and other possible and applicable ordinance provisions.
    - e. Consideration of buffers, screening, or direction of lighting.
    - f. The natural features on the site: topography, drainage courses, microclimate vegetation, and soil conditions and stability.
    - g. The availability of utilities (on site and off site).

- h. Vehicular access, trip generation, and potential traffic problems.
  - i. The availability of transit, capacity of the road system, and existence of plans for bicycle and pedestrian ways.
  - j. Conditions placed on previous applications.
  - k. Review submittal requirements.
  - l. Preferred architectural design and building orientation.
  - m. Location of planned activity areas to satisfy functional needs of the park.
3. A pre-requisite to the filing of an application for a new park or resource area/open space under Class II Parks Design Review is that the Parks Director must demonstrate that the adopted community planning process for parks has been followed. Alternately, the Parks Director will hold a meeting with the respective City recognized neighborhood association, per CDC Section 99.038, at which time the Parks Director will present the proposal and receive comments. No neighborhood meeting is required for a Class I Design Review.
  4. The applicant shall submit a completed application form.
  5. The applicant shall provide the submittal for either a Class I or II Park Design Review as explained in Sections 56.075 or 56.080 below.

**56.075 SUBMITTAL STANDARDS FOR CLASS I PARKS DESIGN REVIEW**

- A. The application for a Class I parks design review shall contain the following elements:
  1. A site analysis (per Section 56.110) only if the site is undeveloped.

2. A site plan (per Section 56.120) is required.
3. Architectural drawings, including building envelopes and all elevations (per Section 56.140), but only if architectural work is proposed.
4. Pursuant to Section 56.085, additional submittal material may be required.
5. Three copies at the original scale and three copies reduced to 11 X 17 inches or smaller of all drawings and plans must be submitted. Three copies of all other items must be submitted. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department.

**56.080 SUBMITTAL STANDARDS FOR CLASS II PARKS DESIGN REVIEW**

- A. The application for a Class II parks design review shall contain the following elements:
  1. A site analysis (per Section 56.110);
  2. A site plan (per Section 56.120);
  3. A grading plan (per Section 56.130);
  4. Architectural drawings, indicating floor plan and elevation (per Section 56.140);
  5. A landscape plan (per Section 56.150);
  6. A sign plan (per Section 56.160); and,
  7. A pedestrian and automobile circulation plan.
  8. The utility plan: The application shall include a submittal appropriate to respond to the approval criteria of CDC Section 56.100(I)(1-5) relating to streets, drainage, municipal water, sanitary sewers, solid waste, and recycling storage.

9. A narrative, based on the standards contained in this Code, which supports any requested exceptions as provided under Section 56.170.
10. Submit full written responses to approval criteria of Section 56.100 for Class II design review, or Section 56.090 for Class I design review, plus all applicable referenced approval criteria.
11. Class II Design Review applications, that require Planning Commission review, shall submit ten full-sized copies of the required plans. Class I Design Review shall require three copies at the original scale, and three copies reduced to 11 X 17 inches or smaller, of all drawings and plans must be submitted. Three copies of all other items must be submitted.

**56.085 ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS**

- A. The Planning Director may require additional information as part of the application subject to the provisions of Section 99.035(A).
- B. The Planning Director may waive any requirements for the application at the applicant's request, subject to the provisions of Section 99.035(B) and (C).

**56.090 APPROVAL STANDARDS - CLASS I DESIGN REVIEW**

The Planning Director shall make a finding with respect to the following criteria when approving, approving with conditions, or denying a Class I design review application:

- A. The provisions of the following sections shall be met:
  1. Section 56.100(C)(1-5), "Relationship to the natural physical environment," shall apply except in those cases where the proposed development site is substantially developed and built out with no natural physical features that would be impacted. (ORD.1547)

2. Section 56.100(D), “Facility design, et al,” shall only apply in those cases that involve exterior architectural construction, remodeling, or changes. (ORD. 1547)
  3. Pursuant to Section 56.085, the Director may require additional information and responses to additional sections of the approval criteria of this section depending upon the type of application.
- B. The Planning Director shall determine the applicability of the approval criteria in 56.090(A), above.

**56.100**

**APPROVAL STANDARDS - CLASS II DESIGN REVIEW**

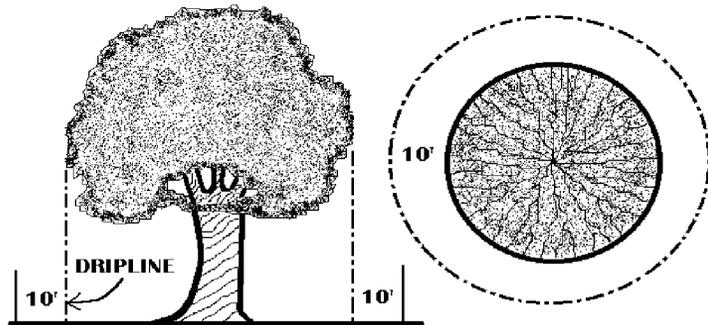
The approval authority shall make findings with respect to the following criteria when approving, approving with conditions, or denying a Class II parks design review application.

- A. Park classification. The proposed park and park programs shall conform to, and agree with, the Parks Master Plan and the parks definitions of section 56.015. Re-classifying the purpose of a park and the programs shall require an amendment to the Parks Master Plan.
- Park facilities that are not discussed in the Parks Master Plan shall be classified using the criteria of CDC 56.015 and the Parks Master Plan. Once the classification is made, the approval criteria shall take into consideration those program needs and the standards for the specific park type and evaluate the application accordingly.
- B. Visual and physical accessibility. Many of the City’s parks suffer from inadequate visibility such as Sunburst Park and North Willamette Park, surrounded as they are by housing. Increased frontage on streets allows greater use of on-street parking and less park space being used for parking. The surrounding streets also provide transitions between on and off-site activities as discussed in section 56.100(C)(5). Physical access is also facilitated by having good cognitive locations that can be safely accessed by bike

paths and sidewalks. Improved visual access amplifies the investment and positive benefits of parks in that many people who do not stop the car and actually use the park, derive emotional benefits by exposure to scenes of open space, trees, and grass fields in a world increasingly dominated by built environments.

C. Relationship to the natural environment.

1. The buildings and other site elements shall be designed and located so that all heritage trees, as defined in the Municipal Code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at the direction of the City Manager.
2. All heritage trees, as defined in the Municipal Code, all trees and clusters of trees (cluster is defined as three or more trees with overlapping driplines; however, native oaks need not have an overlapping dripline) that are considered significant by the City Arborist, either individually or in consultation with certified arborists or similarly qualified professionals, based on accepted arboricultural standards including consideration of their size, type, location, health, long term survivability, and/or numbers, shall be protected pursuant to the criteria of subsections 2(a-c) below. It is important to acknowledge that all trees are not significant.
  - a. Areas of the park that include non Type I and II lands shall protect all heritage trees, all significant trees through the careful layout of streets, building pads, playing fields, and utilities. The method for delineating the protected trees or tree clusters ("dripline + 10 feet") is explained in subsection (b) below. Exemptions of subsection (c) below shall apply.



**PROTECTED AREA = DRIPLINE + 10 FEET**

- b. Areas of the park that include Type I and II lands shall protect all heritage, significant and non-significant trees. Groundcover, bushes etc. shall be protected and may only be disturbed to allow the construction of trails or accessing and repairing utilities. Exemption of subsection (c) below shall apply.
3. In the case of natural resource areas, the topography shall be preserved to the greatest degree possible. Conversely, in non-natural resource areas, it is recognized that in order to accommodate a level playing fields in an active-oriented park, extensive grading may be required and the topography may be modified.
4. The structures shall not be located in areas subject to slumping and sliding. The Comprehensive Plan Background Report's Hazard Map, or updated material as available and as deemed acceptable by the Planning Director, shall be the basis for preliminary determination.
5. The park shall be designed in such a way as to take advantage of scenic views and vistas from the park site, as

long as such views can be obtained without eliminating significant trees or other natural vegetated areas.

D. Facility design and relationship to the human environment

1. Architecture. Whereas most park buildings are small in size and compatible with existing structure(s) on site and on adjoining sites, the possibility of larger facilities exists. Larger buildings are defined as those over 1,000 square feet and under 10,000 square feet in size. In those cases, contextual design is required. Contextual design means respecting and incorporating prominent architectural styles, building lines, roof forms, rhythm of windows, building scale and massing, materials and colors of surrounding buildings in the proposed structure. Also important is breaking the larger building into smaller visual components so that the mass of the building is not so apparent. This is especially relevant when the building is near the perimeter of the park. However, certain uses, by virtue of their functional and spatial requirements, are large and can never be made visually equal or even compatible with nearby homes. Such uses shall not be prohibited from locating at active-oriented park facilities on architectural grounds so long as the applicant's architect has broken down the building's horizontal plane into smaller visual components and stepped down the building at the end closest to the off-site structure(s). "Smaller visual components" shall be defined as changes in the horizontal plane every 100 feet created by indentations or pop-outs at least three feet in depth. "Stepping down" shall be defined as bringing the park building's end section that is closest to off-site dwellings to half the distance between the highest ridgeline of the park structure and the highest ridgeline of the nearest

off- site structure. In those cases where visual component breakdown or stepping down is not feasible, the applicant may rely on transitions in terms of distance as reasonable mitigation between on and off-site buildings. An appropriate minimum distance to achieve mitigation shall be either 150 feet or an existing public right-of-way.

2. Material. Park structures shall emphasize natural material: such as exposed timbers, wood with brick and stone detail. Colors are subdued earth tones: grays, brown, off-whites, black, slate, and greens.
3. Human scale is a term that seeks to accommodate the users of the building and the notion that buildings should be designed around the human scale (e.g., average range of human perception). For large buildings, defined as over 1,000 square feet and less than 10,000 square feet in size, human scale shall be accommodated by, for example, multi-light windows that are broken up into numerous panes, intimately scaled entryways, visual breaks (exaggerated eaves, indentations, belly boards, ledges, cornices, awnings, engaged columns, etc.) in the facades of buildings, both vertically and horizontally, but particularly within the first 10 to 15 feet as measured vertically.
4. Transparency. For all enclosed buildings in the park, with the exception of public restrooms, storage and utility buildings, the main/front building elevation shall provide at least 60 percent windows or transparency at the pedestrian level to create more interesting building elevation, allow natural/ambient interior lighting and enhance defensible space. One side elevation shall provide at least 30 percent transparency. Transparency on other elevations is optional. The transparency is measured in lineal fashion. For

example, a 100-foot long building elevation shall have at least 60 feet (60% of 100) in length of windows. The window height shall be, at minimum, three feet tall. The exception to transparency would be cases where demonstrated functional constraints or topography restrict that elevation from being used. When this exemption is applied to a building elevation(s), the square footage of transparency that would ordinarily be required by the above formula shall be installed on the remaining elevations in addition to any transparency required by a side elevation, and vice versa. The transferred transparency is not required to be at pedestrian level and may be incorporated into clerestories or dormers. The rear of the building is not required to include transparency. The transparency must be flush with the building elevation.

E. Transportation Planning Rule (TPR) compliance.

The TPR is a state requirement to reduce dependence upon the private automobile, reduce the total number of vehicle miles traveled and reduce carbon monoxide emissions. One way this can be achieved is by providing greater connectivity within the city from one neighborhood to the next so that circuitous, fuel-consuming trips are reduced. Where park space is bisected by a planned arterial connector as identified in the City's Transportation Master Plan, then that arterial shall be constructed as part of the park project. Where proposed collector or local streets are shown on the Transportation Master Plan or where existing roads stub out adjacent to the parks property, the road shall also go through, except in those cases where one of the following criteria is met:

1. The road will eliminate or adversely affect the functional value of the park (e.g., it would go through the only reasonable location for a planned soccer field).

2. The road will adversely affect the quality or quantity of a natural resource area/open space (e.g., construction of the road will require grading or fill in the resource area, the increased traffic associated with the road will diminish the restorative, contemplative, and natural interpretative opportunities associated with the resource; the impact of the traffic, such as noise, pollutants, and glare, will make the area less attractive as a wildlife habitat or corridor, and/or have adverse environmental impacts on the resource, etc.).
3. The road will be in conflict with the city charter languages.

F. Compatibility between adjoining uses.

1. On-site screening from view from adjoining properties of such things, as service and storage areas shall be provided and the following factors will be considered in determining the adequacy of the type and extent of the screening:
  - a. What needs to be screened?
  - b. The direction from which it is needed.
  - c. How dense the screen needs to be.
  - d. Whether the viewer is stationary or mobile.
  - e. Whether the screening needs to be year around.
  - f. Consideration shall be given to the proper screening of lights so that no off-site glare is produced.
2. Roof top air-cooling and heating systems and other mechanical equipment shall be screened from view from adjoining properties.

G. Crime prevention and safety/defensible space.

1. Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants.
2. The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime, to

enhance public safety and away from natural resource areas to minimize disturbance of wildlife.

3. Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as large parking lots, stairs, ramps, and abrupt grade changes during hours of intended use or operation.
4. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet, which is sufficient to illuminate a person. All projects undergoing design review shall use low- or high-pressure sodium bulbs and be able to demonstrate effective shielding so that the light is directed downwards rather than omni-directional.
5. Playing fields and court areas shall not be illuminated unless they are separated from nearby homes by adequate distance and/or screening. Adequate distance shall be at least 150 feet. Adequate screening shall be on or off-site fences, walls, terrain variation or vegetation. (trees, etc.)
6. Lines of sight shall be reasonably established so that the park and its facilities are visible to police and nearby residents.
7. Large or visually inaccessible parks should ensure that at least some emergency vehicle access is provided to the park's interior.
8. Closure times may be posted and/or gates may be installed at city parks to discourage their use at night if necessary for crime prevention and/or public safety.
9. Park landscaping shall accommodate safety concerns with appropriate use of plant types and ease of maintenance.

H. Public facilities.

1. Streets. Sufficient right-of-way and slope easement shall be dedicated to accommodate all abutting streets to be

improved to City's Improvement Standards and Specifications. In determining the appropriate sizing of the street, the street should be the minimum necessary to accommodate anticipated traffic load and needs and should provide substantial accommodations for pedestrians and bicyclists and in keeping with the character of the neighborhood. Road and driveway alignment should consider and mitigate impacts on adjacent properties and in neighborhoods in terms of increased traffic loads, noise, vibrations, and glare.

Streets shall be installed per Chapter 85 standards.

Sidewalks shall be installed per Sections 85.200(A)(16) and 92.010(H). Both chapters allow reduced sidewalk widths to accommodate topographic limitations or to preserve trees.

2. Parking lots. CDC Section 46.090 explains the parking requirements for the various categories of parks and open space areas. City squares, malls or plazas are exempt from the parking requirements of Chapter 46. Reduced parking requirements are explained in Section 56.170. Except for areas accommodating ADA disabled parking and ADA access, parking lots may be constructed with grasscrete.
- I. Paths and trails. Paths and trails connect the various activity areas within the park. They can also serve as part of a greater system of connective trails from one neighborhood or destination to another. Just like streets, there is a hierarchy of paths and trails.
  1. Paths that connect the right-of-way and/or parking lot with the main activity area(s) of the park need to accommodate pedestrians, bicyclists, and persons with disabilities (as grades allow). The path shall be paved and 5 to 8 feet wide. Lesser dimensions are allowed where topography

and trees limit width. The grade shall be kept to fewer than five percent where the terrain allows. The path may be illuminated if the facility is programmed for night use.

2. Paths that provide a link through the park to neighborhoods on either side must be recognized for their value in addressing the TPR, particularly in those cases where connecting roads through the park or natural area are not provided per Section 56.100(C)(6). These trails or paths may be paved, 5-8 feet wide and may be illuminated. Narrower path sections are permitted in response to topography and to preserve trees. Illumination is especially important for this group if these paths are used by early morning and early evening bicycle and pedestrian commuters. Directional signs are needed for this type of trail and user group.
3. Smaller or reduced width paths, within park boundaries, can be built to link lesser activity areas or areas of attraction. Walkers, cyclists, or runners who do multiple loops for exercise often use these paths. These paths may be crushed gravel or paved and at least six feet wide.
4. Nature trails are typically three to six feet wide, gravel, hog fuel, or packed earth. These trails are especially attractive to persons seeking quieter parts of the park for natural interpretation or solitude. Other user groups often use them for exercise loops. Trails and footbridges in natural areas should be designed to minimize disturbance of significant resources. Limiting access to creek beds, potentially erosive slopes, or wetlands by humans and dogs is an important measure if habitat or resource protection is to be addressed. At least initially, the use of these trails by all user groups should be encouraged. Changes or restrictions

to some user groups shall be based on empirical observations at that specific site.

5. Disabled access paths allow disabled persons to access specific activity areas in the park at grades that meet ADA standards. Many parks have special disabled access paths with interpretive areas and viewpoints to allow visual, if not physical, access to natural resource areas. Usually, these paths are 50-200 meters long, 8 feet wide, and clearly identified.
  6. Paths or trails that link parks, schools, neighborhoods, and the community and even integrate with adjacent cities or regional trails may be paved, 5-10 feet wide. The paths or trails should follow easily identified cognitive routes with good surveillance and defensible space.
  7. All paths and trails shall be clearly identified with signs. They shall be laid out to attract use and to discourage people from cutting across landscaped areas or impacting environmentally sensitive areas.
- J. Provisions for persons with disabilities. The needs of a person with a disability shall be provided for. Accessible routes shall be provided between parking lot(s) and principal buildings and site facilities. The accessible route shall be the most practical direct route between accessible building entries, accessible site facilities, and the accessible entry to the site. All facilities shall conform to, or exceed, the Americans with Disabilities Act (ADA) standards, including those included in the Uniform Building Code.
- K. Miscellaneous criteria. Selected elements of the following chapters shall be met. It is not necessary to respond to all the submittal standards or approval criteria contained in these chapters, only those elements that are found to be applicable by the Planning

Director at the pre-application conference pursuant to CDC Chapter 99.030(B) and (C):

1. Chapter 33, Storm Water Quality and Detention.
2. Chapter 34, Accessory Structures.
3. Chapter 38, Additional Yard Area Required.
4. Chapter 40, Building Height Limitations and Exceptions.
5. Chapter 42, Clear Vision Areas.
6. Chapter 44, Fences & Screening Outdoor Storage.
7. Chapter 46, Off-Street Parking and Loading.
8. Chapter 48, Access.
9. Chapter 52, Signs.
10. Chapter 54, Landscaping. In addition, landscape plans shall incorporate plants which minimize irrigation needs without compromising recreational facilities or an attractive park environment.

**56.110 THE SITE ANALYSIS**

The site analysis shall include:

- A. A vicinity map showing the location of the property in relation to adjacent properties, roads, pedestrian and bikeways, transit stops and utility access.
- B. A site analysis on a drawing at a suitable scale (in order of preference 1" = 10' to 1" = 30') which shows:
  1. The parcel boundaries, dimensions, and gross area.
  2. Contour lines at the following minimum intervals:
    - a. Two-foot intervals for slopes from 0-25 percent; and,
    - b. Five- or ten-foot intervals for slopes in excess of 25 percent.
  3. The location and width of adjoining streets.
  4. The drainage patterns and drainage courses on the site and on adjacent lands.

5. Potential natural hazard areas including:
  - a. Flood plain areas;
  - b. Areas subject to a high-water table;
  - c. Landslide areas; and,
  - d. Areas having a high erosion potential.
6. Resource areas including marsh and wetland areas.
7. The site features including:
  - a. Large rock outcroppings;
  - b. Areas having unique views; and,
  - c. Streams and stream corridors.
8. Potential historic landmarks and registered archaeological sites. The existence of such sites on the property shall be verified from records maintained by the Planning Department and other recognized sources.
9. The location of trees having a six-inch caliper at five feet and where the site is heavily wooded, an aerial photograph at the same scale as the site analysis may be submitted and only those trees that will be affected by the proposed development need be sited accurately (e.g., construction activity within the drip line of the trees). All significant trees and tree clusters identified by the City Arborist using the criteria of CDC Section 56.100(B)(2) and all heritage trees shall be delineated.
10. Identification information including the name and address of the owner, developer, and project designer and a lineal scale and north arrow.

**56.120 THE SITE PLAN**

The site plan shall be at the same scale as the site analysis (Section 56.110) and shall show:

- A. The applicant's entire property and the surrounding property to a distance sufficient to determine the relationship between the

applicant's property and proposed development and adjacent property and development.

- B. Boundary lines and dimensions for the perimeter of the property and the dimensions for all proposed lot lines, section lines, corners, and monuments.
- C. Streams and stream corridors.
- D. Identification information, including the name and address of the owner/applicant and project designer and a lineal scale and north arrow.
- E. The location, dimensions, and names of all:
  - 1. Existing and platted streets and other public ways and easements on adjacent property and on the site;
  - 2. Proposed streets or other public ways, easements, on the site.
- F. The location, dimensions, and setback distances of all:
  - 1. Existing structures, improvements, and utility facilities on adjoining properties;
  - 2. Existing structures, improvements, and utility facilities to remain on the site;
  - 3. Proposed structures, improvements, and utility facilities on the site.
- G. The location and dimensions of:
  - 1. The entrances and exits to the site;
  - 2. The parking and circulation areas;
  - 3. Loading and service areas for waste disposal, loading, and delivery;
  - 4. Pedestrian and bicycle circulation areas;
  - 5. All utilities; and,
  - 6. Sign locations.
- H. The location of areas to be landscaped.

- I. The location and type of outdoor light with specific consideration given to crime prevention.
- J. Submit an engineering noise control plan by a licensed acoustical engineer to satisfy the noise standards as identified in Section 55.100(D), in cases where proposed land use can reasonably be expected to generate noise. A reasonable alternative to commissioning a noise study to determine the noise levels of, for example, children's soccer league, would be to either locate the potential noise source away from residential properties, to limit activity hours and/or not provide illuminated playing fields or ball courts.

**56.130 GRADING PLAN**

The grading and drainage plan shall be at the same scale as the site analysis (Section 56.110) and shall include the following:

- A. The location and extent to which grading will take place indicating general contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed.
- B. Plans and statements to demonstrate the ability of the project to meet Appendix 33 requirements of the Uniform Building Code.
- C. A registered civil engineer shall prepare a plan and statement that shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity of runoff off site, or the plan and statement shall identify all off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine the off-site impacts from a 25-year storm.
- D. Storm detention and treatment plans may be required.
- E. Identification, information, including the name and address of the owner, developer, project designer, and the project engineer.

**56.140 ARCHITECTURAL DRAWINGS**

Architectural drawings shall be submitted showing:

- A. Building elevations and sections;

- B. Building materials: color and type;
- C. The name of the architect or designer.

**56.150 THE LANDSCAPE PLAN**

- A. The landscape plan shall include the following:
  - 1. Existing trees, shrubs, plants and groundcover that will be retained as well as an indication of those trees and landscaping that will be removed.
  - 2. Generalized landscape plan showing areas to be landscaped in the new park plan. Showing that an area will be planted with shrubs or evergreen groundcover is sufficient. (It is not necessary to provide plant detail; for example, 5-gallon ferns at four feet on center, etc.)
  - 3. Statement that the landscaping will be irrigated.
  - 4. The location of buffering or screening materials (e.g., fences).
  - 5. The location of playing fields (identify type of activity, if known), picnic shelters, play areas, etc.
  - 6. Building and pavement outlines.
- B. The landscape plan shall be accompanied by:
  - 1. Planting schedule.
  - 2. Supplemental information as required by the Planning Director or City Arborist.

**56.170 EXCEPTIONS TO UNDERLYING PARKING PROVISIONS**

The Planning Director may grant up to a 50 percent exception to the off-street parking dimensional and minimum number of space requirements in the applicable zone so long as one of the following criteria is met:

- 1. There is an opportunity for shared parking and there is written evidence that the property owners are willing to enter into a legal agreement; or,
- 2. Public transportation is available to the site reducing the standards and will not adversely affect adjoining uses, and

there is a community interest in the preservation of particular natural feature(s) of the site which make it in the public interest to grant an exception to parking standards.

(AMENDED PER ORD. 1547; 2/07)

p:/devrvw/cdc/CDC 56-Park Standards.12-03

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## **57.000 WIRELESS COMMUNICATION FACILITIES (WCF)**

### **57.010 PURPOSE**

The purpose of this chapter is to establish appropriate locations, site development standards, and permit requirements for wireless communication facilities and services within the City, in a manner which will facilitate location of various types of wireless communication facilities in permitted locations so they are consistent with the residential character of the City. The requirements of this chapter:

1. Ensure compatibility of proposed WCF with surrounding areas by establishing standards for location, height, structural integrity, design review, landscaping, visual screening;
2. Reduce the apparent quantity of WCF by providing incentives and other inducements to utilize co-location and “stealth” technologies, thereby lessening adverse visual impacts of these facilities on the City’s developed residential areas and natural surroundings; and,
3. Allow WCF which are sufficient to allow adequate service to citizens, the traveling public, and others within the City; and to accommodate the need for connection of such services to wireless facilities in adjacent and surrounding communities.

### **57.020 DEFINITIONS**

**Antenna(s)**. A device commonly in the form of a metal rod, wire panel, or dish, for transmitting or receiving electromagnetic radiation. An antenna is typically mounted on a supporting tower, pole, mast, or building.

**Co-location**. The placement of two or more antenna systems or platforms by separate Federal Communication Commission (FCC) license holders on a structure such as a support structure, building, water tank, or utility pole.

**Stealth Designs**. The use of structures, etc., to accommodate and conceal a WCF, particularly as it may be seen from the adjoining right-of-way. An example would be the use of a cupola or clock tower to hide a WCF. Stealth designs can be either inside or outside a building.

**Wireless communication facility (WCF).** An unstaffed facility for the transmission or reception of radio frequency (RF) signals, usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices.

**Wireless communication facility (WCF), attached.** A wireless communication facility that is affixed to an existing structure; e.g., an existing building wall or roof, mechanical equipment, tower or pole, water tank, utility pole, or light pole. It cannot include an additional new wireless communication support structure.

**Wireless communication support structure.** A new structure, tower, pole, or mast erected to support wireless communication antennas and connecting appurtenances. Support structure types include, but are not limited to, monopoles, lattice towers, wood poles, and guyed towers.

## **57.030**

### **APPLICABILITY**

These provisions shall apply to all applications for the installation or construction of wireless communication facilities (WCF) including support structures and attached and/or co-located WCFs and antennas and shall include stealth designs as defined in Section 57.020. This chapter encourages co-location and the placement of antennas and WCF on existing structures and buildings by permitting those uses, either outright or by design review. The construction of new WCF structures is discouraged by requiring more extensive review including conditional use permits and design review. The following table explains what review process is required for each WCF type by zoning district. Non-commercial ham radio towers, citizen band transmitters, and antennas over 50 feet tall must be reviewed under this chapter like any other WCF using the appropriate category.

57.040

TABLE EXPLAINING APPLICABILITY OF WCF TYPE BY ZONE

Wireless Communication Facilities Type

Zone	CO-LOCATION						Install Accessory Bldgs., Equip., Landscaping
	New Tower 120' Max. Incl. Array	New Tower 40' Max. Incl. Array	30' Max Above Bldg. or Existing WCF <sup>1</sup>	10' Max. Above Bldg. or Existing WCF <sup>1</sup>	No Ext. Above Bldg. or Existing WCF	On Utility/ Light Poles in R.O.W. or Easements All Zones- No Extension <sup>4</sup> .	
GC, OBC, CI, R-2.1, R-3	No	CUP/DR Class II	No	DR Class I	Outright <sup>3</sup>	Outright <sup>3</sup>	Outright <sup>3</sup>
GI	CUP/DR Class II	DR Class II	DR Class I	Outright <sup>3</sup>	Outright <sup>3</sup>	Outright <sup>3</sup>	Outright <sup>3</sup>
Public Bldgs in All Zones	No	No	No	DR Class I	Outright <sup>3</sup>	Outright <sup>3</sup>	Outright <sup>3</sup>
All Other Zones	No	No	No	No	No	DR Class I	DR Class I
Historic W.F. Dr. Comm'l Overlay Zone	No	No	No	No	No	No	Outright <sup>3</sup> inside existing bldg. only <sup>3</sup>

<sup>1</sup> Maximum 5 antenna arrays/users on same tower or in case of building, there is maximum 5 antenna arrays/users. Additional antenna arrays/users on same building must be at least 50 feet from existing cluster or outside of line of sight of existing cluster as seen from adjacent right-of-way. Maximum height is to top of highest antenna. The reference in the third vertical column "30' Max. Above Bldg. or Existing WCF" means that any WCF tower built under the provisions of the ordinance can be increased in height by a maximum of 30 feet. For example, a 120-foot tower in the General Industrial zone could be increased to 150 feet to accommodate co-location. No additional height increases would be permitted unless by Class II variance. WCF providers cannot stack one 30-foot increase on top of another 30-foot increase.

<sup>2</sup> Stealth designs represent the placement of antennas and all support equipment inside buildings or enclosures so they are not readily seen from adjacent right-of-ways or properties for the purpose of lessening or eliminating visual impacts. Additions to buildings such as cupolas, clock towers, dormers, are permitted to accommodate stealth WCF. No new freestanding buildings may be built exclusively or primarily for the purpose of concealing stealth WCF and support equipment.

<sup>3</sup> Fencing, security, landscaping, screening, and noise standards of Section 57.080 (12-14) shall apply.

<sup>4</sup> "No Extension" means that antennae or other WCF equipment may not extend above the top of the utility or light pole.

**57.050 EXCLUSIONS**

The following uses and activities shall be exempt from these regulations:

1. Existing non-commercial or commercial towers and antennas and any repair, reconstruction, repainting, or maintenance of these facilities which does not create a significant change in visual impact.
2. Non-commercial ham radio towers, citizen band transmitters, and antennae under 50 feet tall.
3. Antennas and equipment and other apparatus completely located within an existing structure, the purpose of which is to enhance or facilitate communication function of other structures on the site.

**57.060 APPLICATION REQUIREMENTS**

An application shall be pursuant to Section 99.030.

**57.070 SUBMITTAL REQUIREMENTS**

To be considered a complete application, the following information is required:

1. A plot plan showing: the lease area; antenna structure; height above grade and setback from property lines; equipment shelters and setback from property lines; access; connection point with land line system; and all landscape areas intended to screen the WCF.
2. An engineer's statement that the RF emissions at grade, or at nearest habitable space when attached to an existing structure comply with FCC rules for such emissions; the cumulative RF emissions if co-located.
3. A description of the type of service offered (voice, data, video, etc.) and the consumer receiving equipment.
4. Provide facilities maintenance schedule.
5. Provide zoning and Comprehensive Plan designation of proposed site.
6. Photo or computer simulations of the proposed WCF from the four cardinal compass points and/or abutting right-of-way, whichever provides the most accurate representation of the proposed facility from a variety of vantage points.
7. The distance from the nearest WCF and nearest co-location site.

8. An engineer's statement demonstrating:
  - a. The reasons why the WCF must be located at the proposed site (service demands, topography, dropped coverage, etc.)
  - b. The reason why the WCF must be constructed at the proposed height; and,
  - c. Verification of good faith efforts made to locate or design the proposed WCF to qualify for a less rigorous approval process (building permit or site plan approval).
9. A copy of that portion of the lease agreement (or lease memo) with the property owner that includes co-location provisions (where applicable), facility removal within 90 days of abandonment, and a bond to guarantee removal, shall be submitted to the City for review purposes only. The bond may be effective only in the event that the application is approved.
10. A signed statement from the applicant agreeing to allow co-location on the applicant's structure (where applicable).
11. A map of the City showing the approximate geographic limits of the "cell" to be created by the facility. This map shall include the same information for all other facilities owned or operated by the applicant within the City, or extending within the City from a distant location, and any existing detached WCF of another provider within 1,000 feet of the proposed site.
12. An engineer's analysis/report of the recommended site location area for the proposed facility. If an existing structure approved for co-location is within the area recommended by the engineer's report, reasons for not co-locating shall be provided and must demonstrate at least one of the following deficiencies:
  - a. The structure is not of sufficient height to meet engineering requirements;
  - b. The structure is not of sufficient structural strength to accommodate the WCF;

- c. Electromagnetic interference for one or both WCF will result from co-location; or,
  - d. The radio frequency coverage objective cannot be adequately met.
13. Full response to Section 57.080 approval criteria as applicable.
  14. Fulfillment of co-location protocol requirements of Section 57.090.

**57.080**

**APPROVAL CRITERIA**

1. For WCF allowed outright, a building permit is required. WCF, accessory buildings, and equipment shall satisfy Section 57.080(12-14).
2. For WCF allowed by Design Review Class I, the applicable approval criteria of CDC Chapter 55 and applicable criteria of Section (5-14), below, shall apply.
3. For WCF allowed by Design Review Class II, the applicable approval criteria of CDC Chapter 55 and applicable criteria of Section (5-14), below, shall apply.
4. For WCF allowed by conditional use permit, the approval criteria of CDC Section 60.070 and applicable criteria of CDC Chapter 55 (Design Review) and Section (5-14), below, shall apply.
5. Aesthetics.
  - a. New towers shall maintain a galvanized steely grey finish or other accepted contextual or compatible color or, if required by the FAA, be painted pursuant to the FAA's requirements.
  - b. If co-location on an existing tower is requested, the design of any antenna, accessory structure, or equipment shall , to the greatest extent possible, use materials, colors, and textures that will match the existing tower, building, or other existing structures.
  - c. If co-location on an existing non-tower structure is requested, the antenna and supporting electrical and mechanical equipment shall be a neutral color that is the same as the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

6. Setbacks.
  - a. Towers designed to collapse within themselves shall be set back in accordance with the setbacks contained in the zone.
  - b. Towers not designed to collapse within themselves shall be set back from the property line by a distance equal to one-half the height of the tower.
7. Tower location. Co-location or placement on existing structures or buildings is the preferred siting choice. If co-location cannot be accommodated, new WCFs shall be placed as close as possible to existing WCFs so that the impacts are concentrated rather than spread out or dispersed.
8. Height. New towers shall not exceed 120 feet in height in the GI zone, and 40 feet in height in the GC, OBC, CI, R-2.1, R-3 zones except by Class II variance. Antennas, etc. may not extend above these heights.
9. Lighting. None allowed except as required by the FAA.
10. Points of visual interest shall be protected. Long range views from the I-205 rest area towards Mt. Hood shall be protected pursuant to Section 57.080(11). Views from residential structures located within 250 feet of the proposed wireless communication facility to the following points of visual interest shall be protected to the greatest practical extent:
  - a. Mountains.
  - b. Significant public open spaces.
  - c. Historic structures.
11. Methods for protecting points of visual interest. The following standards, and only the following standards, shall be used to protect the above identified points of visual interest to the greatest practical extent if views from a residential structure located within 250 feet from a proposed wireless communication facility to a point of visual interest specifically identified above, are significantly impacted. The standards shall also

apply to preserving long range views of Mt. Hood from the northbound I-205 rest area. The applicant shall:

- a. Investigate other locations within the same lot where such visual impacts can be minimized overall.
- b. Investigate alternative tower designs that can be used to minimize the interruption of views from the residents/public to the points of visual interest.
- c. Minimize visual impacts to the point of visual interest referred to above, by demonstrating that co-location or the use of other structures within the service area is not feasible at this time.
- d. Minimize visual impacts by varying the setbacks or landscape standards that would otherwise be applicable, so long as the overall impact of the proposed development is as good or better than that which would otherwise be required without said variations.

12. Fencing and security. For security, tower(s) and ancillary facilities shall be enclosed by a fence up to eight feet high. No fence height variances shall be required.
13. Landscaping and screening. Landscaping shall be placed outside the fence and shall consist of a fast growing vegetation with a minimum planted height of six feet placed densely so as to form a solid hedge. Landscaping shall be properly maintained.
14. Noise. Noise generating equipment shall be sound buffered by means of baffling, barriers, or other suitable means to reduce sound level to meet CDC Section 55.100(D)(3) noise standards.

## **57.090**

### **CO-LOCATION PROTOCOL**

- A. The purpose of this requirement is to create a process that will allow providers to equitably share publicly available, nonproprietary information among themselves, with interested persons and agencies, and with the approval authority, at the time the provider schedules a pre-application conference with the approval authority. This co-location protocol is

designed to increase the likelihood that all reasonable opportunities for co-location have been investigated and that the appropriate information has been shared among the providers.

The approval authority recognizes that co-location is preferable, where technologically feasible and visually desirable, as a matter of public policy, but that co-location of antennae by providers is not always feasible for technical or business reasons. However, if all licensed providers are made aware of any pending tower or antenna permit requests, such disclosure will allow providers to have the maximum amount of time to consider possible co-location opportunities, and will also assure the approval authority that all reasonable accommodations for co-location have been investigated. The code creates strong incentives for co-location because proposals for co-location qualify for a less rigorous approval process (building permit or design review approval rather than a discretionary land use permit).

- B. A pre-application conference is required for all proposed freestanding support structures.
- C. At the time a pre-application conference is scheduled, the applicant shall demonstrate that the following notice was mailed to all other wireless providers licensed to provide service within the City:

“Pursuant to the requirements of Community Development Chapter 57, (name of wireless provider) is hereby providing you with notice of our intent to meet with the City of West Linn in a pre-application conference to discuss the location of a freestanding wireless communication facility that would be located at \_\_\_\_\_(location)\_\_\_\_\_. In general, we plan to construct a support structure of \_\_\_\_\_ feet in height for the purpose of providing (cellular, PCS, etc.) service.

Please inform us whether you have any existing or pending wireless facilities locating within (distance) of the proposed facility, that may be available for possible co-location opportunities. Please provide us with this information within 10 business days after the date of this letter. Your cooperation is appreciated.

Sincerely, (pre-application applicant, wireless provider).”

D. If a response to a co-location request letter is received by an applicant indicating an opportunity for co-location, the applicant shall make a good faith effort to analyze the feasibility of co-location. This analysis shall be submitted with an application for any freestanding support structure. A good faith effort to investigate the feasibility of co-location shall be deemed to have occurred if the applicant submits all of the following information:

1. A statement from a qualified engineer indicating whether the necessary service can or cannot be provided by co-location at the possible co-location site.
2. Evidence that the lessor of the possible co-location site either agrees or disagrees to co-location on his/her property.
3. Evidence that adequate site area exists or does not exist at the possible co-location site to accommodate needed equipment and meet all of the site development standards.
4. Evidence that adequate access does or does not exist at the possible co-location site.

E. If the applicant has provided information addressing each of the criteria in Section D above, the co-location protocol shall be deemed complete.

## **57.100**

### **ABANDONED FACILITIES**

A wireless communication facility which has been discontinued for a period of six consecutive months or longer is hereby declared abandoned. Abandoned facilities

shall be removed by the property owner within 90 days from date of abandonment. Failure to remove an abandoned facility is declared a public nuisance and is subject to penalties and enforcement under CDC Chapter 106. Upon written application, prior to the expiration of the six-month period, the Planning Director shall, in writing, grant a six-month extension for reuse of the facility. Additional extensions beyond the first six month extension may be granted by the Planning Director subject to any conditions required to bring the project or facility into compliance with current law(s) and make compatible with surrounding development.

(ORD. 1408; 2/98)

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**58.000 WILLAMETTE FALLS DRIVE COMMERCIAL DISTRICT  
DESIGN STANDARDS**

**58.010 PURPOSE**

- A. Implement the goals and policies of the economic element of the Comprehensive Plan relating to the rehabilitation and revitalization of the Willamette Commercial District.
- B. Enhance the historic and aesthetic quality of the Commercial District.
- C. Increase the attractiveness of the commercial areas to tourists, customers, tenants, business owners, and City residents.
- D. Reinforce the commitment to existing commercial buildings of the 1880-1915 period and complement the adjacent residential historic district.
- E. Encourage a sense of historic identity for the Willamette area and West Linn as a whole.

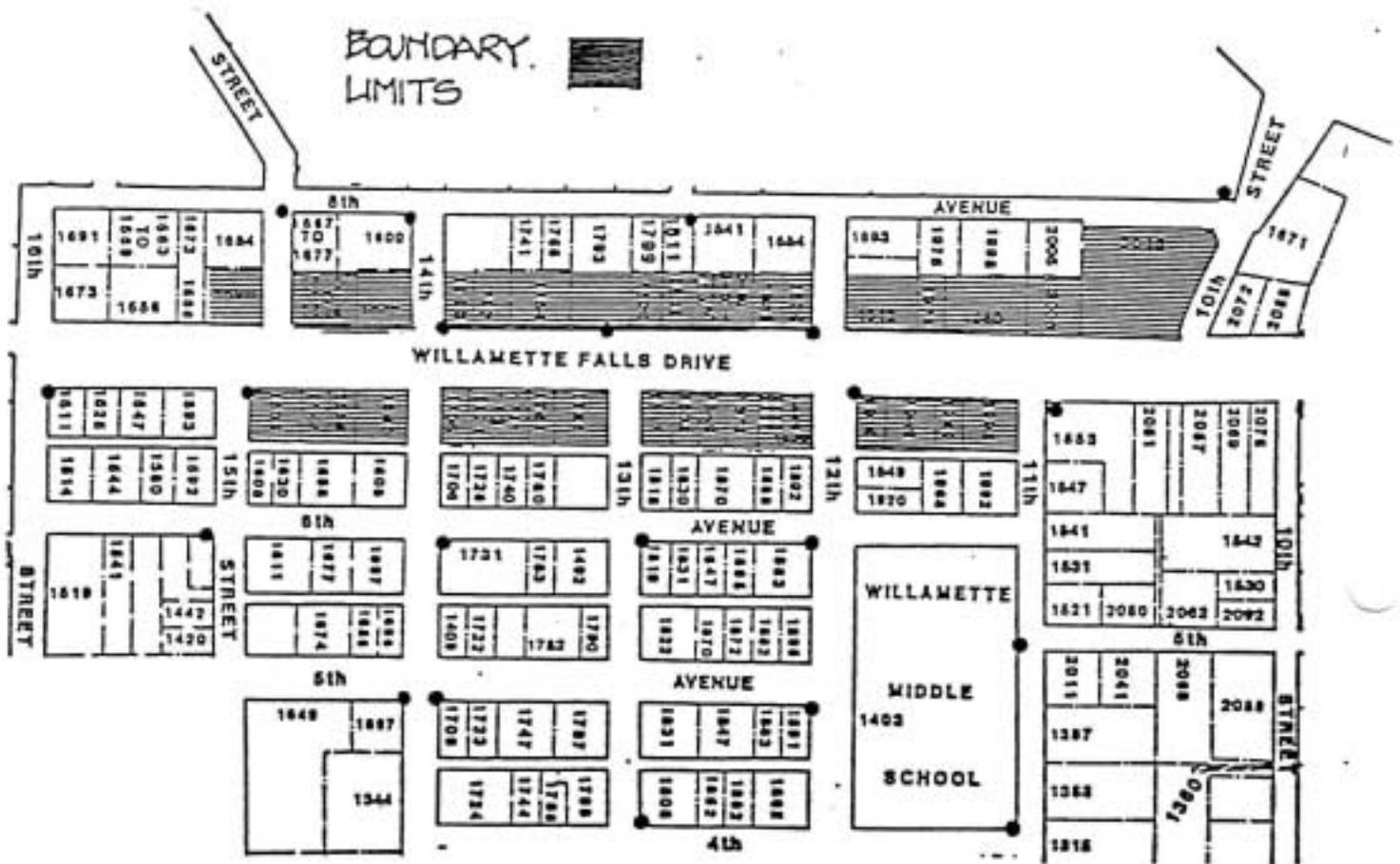
**58.020 IMPLEMENTATION**

The intent and purpose of this chapter shall be carried out by establishing architectural standards of the 1880-1915 period which shall be used in new commercial construction and remodels.

**58.030 APPLICABILITY**

- A. The provisions of this chapter shall apply to all new commercial construction, restorations, and remodels on Willamette Falls Drive between 10th and 15th Streets. Restorations shall be defined as all exterior repairs, replacement of materials, alterations or changes, including reroofing, painting, window, and sign replacement, etc. Failure to obtain a permit shall constitute a Class A infraction pursuant to CDC Section 106.050. (ORD. 1350)
- B. Commercial structures that are also within the Historic District as defined in Section 25.030(A) are required to meet the provisions of Chapter 25 in addition to the provisions of this chapter.

- C. Boundary limits: The affected area shall be as delineated in Figure 1, below. Generally, the area is along Willamette Falls Drive between 10th Street and 15th Street.



**58.040 EXEMPTIONS**

Remodels to exclusive single-family residential homes, are exempt from the provisions of this chapter. Single-family homes that are used for businesses or home occupations are not exempt. Repainting any structure requires review and is not exempt. All exemptions must be approved by the Planning Director.

**58.050 PERMITTED USES**

All uses permitted by the underlying General Commercial zone shall be allowed pursuant to Sections 19.030, 19.040, 19.050, 19.060 and shall require the application of the standards of this chapter. Residential use of the second floor and the rear portion only of the ground floor, with no access onto Willamette Falls Drive, is permitted by application through this chapter. Residential use may only comprise 50 percent or less of the total square footage of the building combined. Commercial uses shall dominate the first floor. (ORD. 1401)

**58.060 REVIEW BODY**

- A. Applications to restore/remodel a commercial structure or construct a new commercial structure shall be reviewed by the Historic Review Board under the category of design review. The Historic Review Board is defined and its duties and responsibilities explained in Section 25.040. The Planning Director, on behalf of the Historic Review Board, shall provide notice for design review pursuant to Section 99.080(B).
- B. Repainting a structure, sign replacement, repairing windows, or minor changes shall be reviewed by the Planning Director as a Class B restoration. Review criteria is the same for a Class B restoration but there is not public notice and the fees are reduced under Section 58.080(C).

**58.065 APPEALS OF HISTORIC REVIEW BOARD**

Appeals of Historic Review Board are heard by the City Council pursuant to Chapter 99, Procedures for Decision-Making: Quasi-Judicial. (ORD. 1474)

**58.070 APPLICATION AND SUBMITTAL REQUIREMENTS**

- A. A pre-application conference with the Planning Director is required prior to formal submittal.
- B. The Director shall determine the appropriateness of the proposal and the completeness of the materials to be submitted. The Director may consult with members of the Historic Review Board in this process.

- C. The application is made with appropriate fees. A written narrative may be required explaining how the proposal meets the approval criteria.
- D. All applications for remodels and new construction shall require scaled elevation plans, site plans, and material and color board.

**58.080 FEES**

- A. New construction and major restoration projects shall be charged fees consistent with adopted fee schedule for design review.
- B. Minor restoration projects under \$50,000 valuation shall pay fees as directed by the adopted fee schedule.
- C. Repainting and replacement of windows (Class B restoration) shall pay a fee as directed by the adopted fee schedule.

**58.090 STANDARDS**

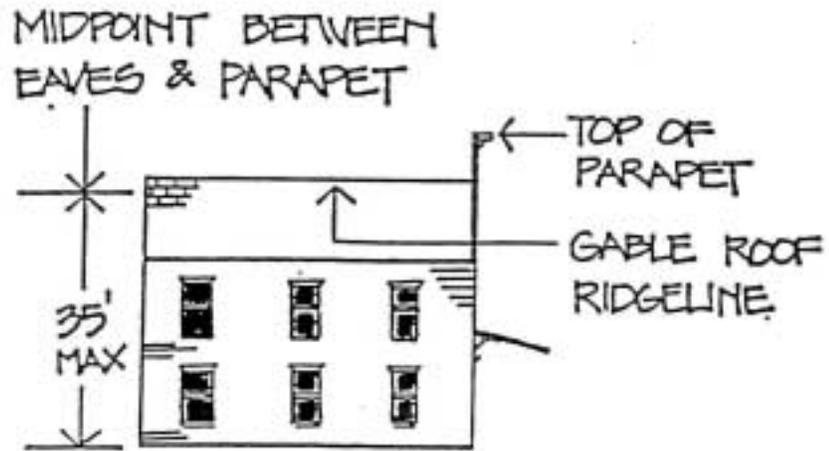
- A. Standards are needed to provide a clear and objective list of design elements that are needed to bring new construction and remodels into conformance with 1880-1915 architecture. Buildings of the period saw relatively few deviations in design. Consequently, the Historic Review Board will require conformance with the standards. Deviations or deletions from the standards are addressed in the variance procedure of this chapter.
- B. The use of "neo-designs" or simply contextual designs which only attempt to capture the basic or generalized elements such as building line, massing and form, etc. is not acceptable.



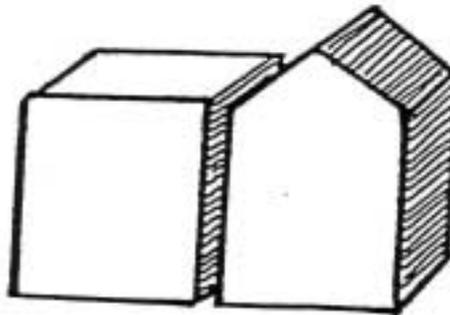
CONTEXTUAL DESIGN,  
AT RIGHT, IS NOT PERMITTED.  
IT INCORPORATES ONLY A  
FEW OF THE REQUIRED FEATURES.

- C. The following standards shall apply to new construction and remodels.
1. Dimensional standards:
    - a. Front: zero-foot setback. Building may not be set back from the property line unless it is consistent with predominant building line.
    - b. Side and Side Street: zero-foot setback. Building may not be set back from the side property line except for side passageway, accessway, or stairway unless fire codes dictate otherwise. The setback shall not exceed six feet. The setback should be consistent with the rhythm of adjacent structures, or at least not deleterious to it.  
(ORD. 1391)
    - c. Rear: 20-foot setback. Setbacks between 0-20 feet are permitted only if the applicant can demonstrate that he can successfully mitigate any impacts associated with the building in current and future uses as they would relate to abutting residential and other properties.
    - d. Lot coverage: up to 100 percent of lot may be developed depending upon ability to mitigate impacts upon abutting residential and other uses.
  2. Minimum landscaping required: Structures in this area are exempt from landscaping requirements as identified in Section 55.100(A)(11)(b), Design Review. The provision of CDC Section 55.100(A)(11)(c)(1-8) shall still apply where parking lots are proposed.
  3. Building height limitations: Maximum building height shall be 35

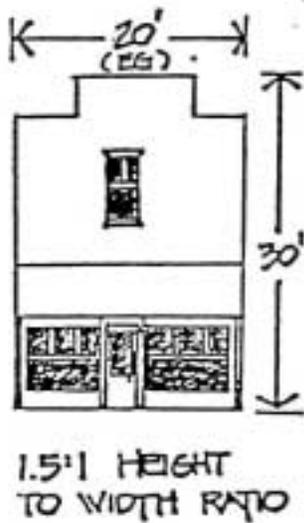
feet (as measured by this Code), and two stories. False fronts shall be considered as the peak of the building if it exceeds the gable roof ridgeline.



4. External ground level or first story minimum height: 10 feet to allow transoms.
5. Roof form: Flat or pitched roofs. Pitched roof ridgeline shall run from the front of the building to the back.



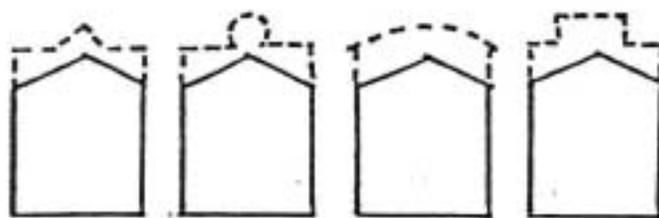
6. Building form, scale and depth: Building shall emphasize the vertical through narrow, tall windows (especially on second floor), vertical awning supports, engaged columns, and exaggerated facades creating a height-to-width ratio of 1.5:1.



FLAT  
VERTICAL  
PLANE OF  
BUILDING  
FACADE



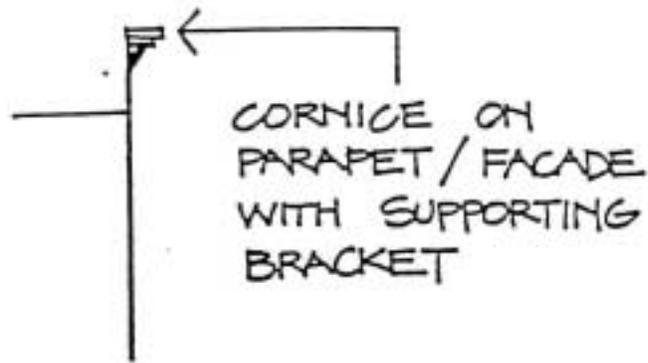
- Building depth shall be flat, only relieved by awning and cornice projections and the indented doorway.
7. Spacing and rhythm: Buildings shall follow a regular rhythm. Strong vertical breaks or lines should be regularly spaced every 25 to 50 feet.
  8. Facades: No gables, hipped, or pitched roofs shall be exposed to the street at the front. The "Western false front" shall be the preferred style although variations shall be allowed.



FACADES WERE  
VARIED, BUT  
WESTERN FALSE  
FRONT DOMINATED

9. Cornice: Cornices shall be broad and may include regularly spaced

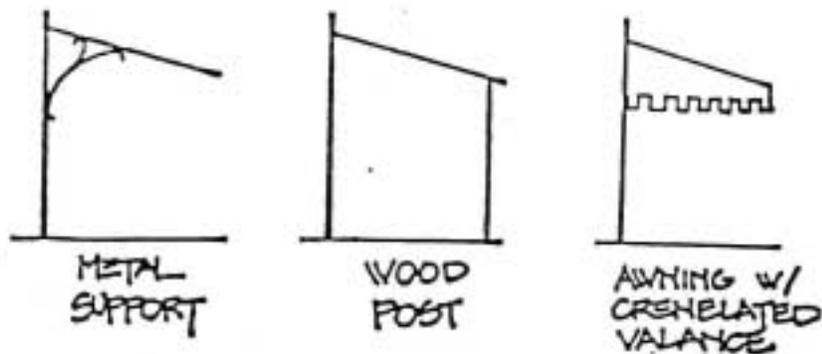
ed.



10. Building materials and orientation: Wood shall be the principal building material. Horizontal wood siding in 1" X 8" dimensions shall be used for siding. Brick and certain concrete configurations are permitted only by a variance under Section 58.090.

11. Awnings: All buildings shall have awnings extending out from building face. Awnings are preferred for micro-climate benefits. Ideally, the building will have both transom and awnings, although transoms are not required.

Awnings shall be either canvas or vinyl, or similar approved material, supported by an internal metal framework or metal or wood supported by a curved metal support, either attached to the building or a simple 4" X 4" wood post extending down to the outside of the sidewalk.

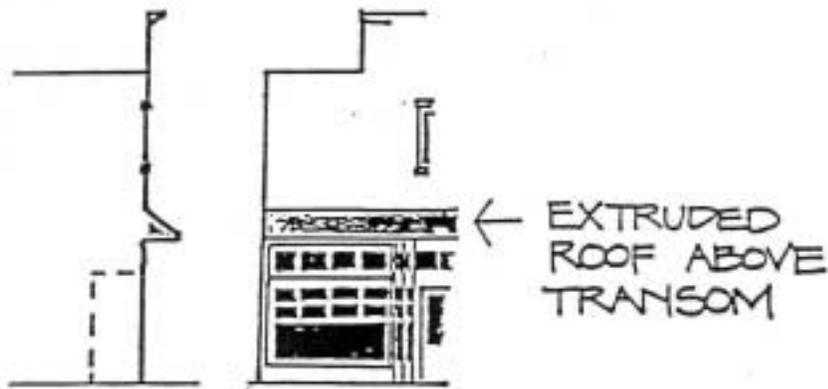


Awnings shall, therefore, extend beyond the front property line to

the outside edge of the sidewalk, and shall possess a seven-foot clearance to the valance or any other part. The pitch of the awning

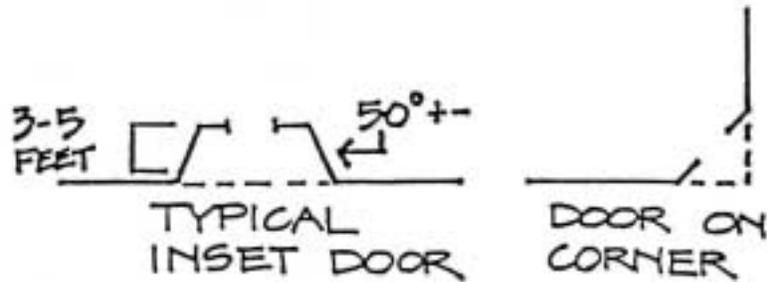
shall be 10-40 degrees. No "bubble-type" awnings are permitted. No backlit awnings are permitted. Canvas or matte finish vinyl, or similar approved material awnings may be one color or striped and shall have a free-hanging plain or crenelated valance. Canvas or matte finish vinyl, or similar approved material awnings should not be shared between two structures. Each structure should have its own awning. (ORD. 1401)

12. Extruded roofs: As a substitute for an awning, extruded roofs have a 10-40 degree pitch and extend 1-2 feet from the building face just above the transom windows where the first and second stories meet. The roof runs along the entire building frontage. Standard roofing materials are used. Transoms are required with extruded roofs.



13. Doors and entryways: The entryway shall be centered in the middle of the building at grade. The buildings on street corners may position their door on the corner at an angle as depicted in the illustration. The doors may be single or double doors. The doors shall be recessed 3-5 feet back from the building line. Doors shall have glazing in the upper two-thirds to half of the door. Panels should decorate the lower portions. The entryway shall have windows all the way around at the same level as the other display

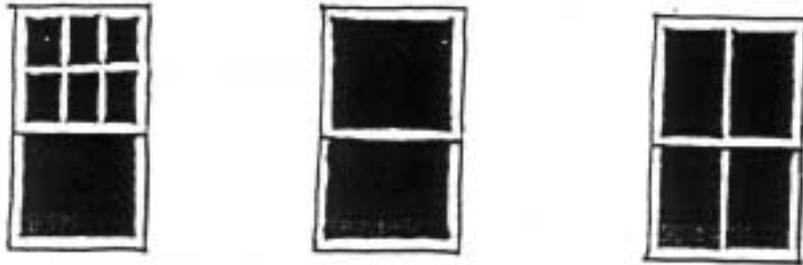
windows. Wood doors are preferable although alternatives with a dark matte finish may be acceptable.



14. Glazing: Clear glass only. No mirrored or tinted glass. No films applied to glass. Lettering on glass is permitted (see Item 25(b) of this section).
15. Display or pedestrian level windows: Shall extend across at least 80 percent of building front. The windows shall start 1-1/2 - 2-1/2 feet above grade to a height of 7-8 feet, and shall be level with the top of the height of the adjacent entryway area, excluding transom. A single sheet of glass is not permitted. The window shall be broken up into numerous sections, also known as lights. From 1880 onwards, the number of lights was generally no more than six in a pedestrian level window. The frames may be wood or vinyl clad wood, or other materials so long as a matte finish is possible.



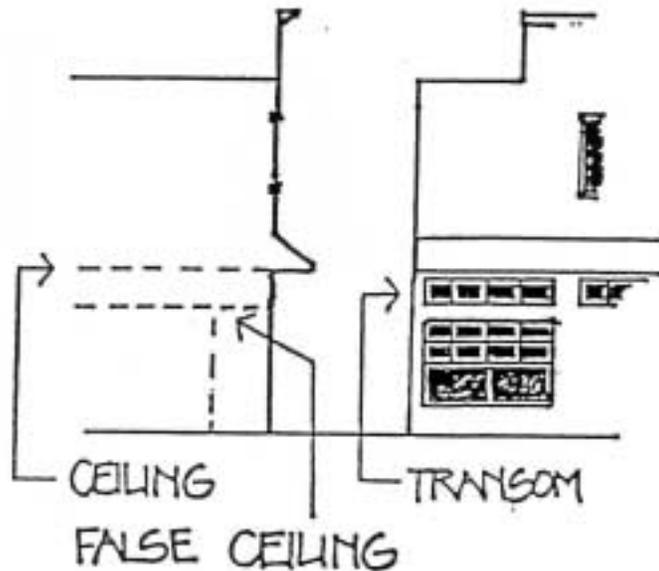
16. Second floor and other windows: Double and single hung windows proportionately spaced and centered should be used. Smaller square shaped windows may be permitted (1-1/2' - 2' per side). A typical window should have a 3:1 height to width ratio for the glass area. There should be a minimum of two lights: "one over one" of equal size. "Two over one" or "four over one" is



17. Wainscoting: Wainscoting shall be consistent with primary material of the building, typically wood.
18. Shutters: Shutters are not allowed.
19. Balconies: No balconies are permitted except on rear of building.
20. Exterior stairs: Simple stairs are permitted on the rear or side of the building only.
21. Roof mounted mechanical equipment: Equipment shall be screened from view on all sides by normal and consistent architectural features of the building. Section 55.100(A)(4), "Privacy and Noise," shall apply.
22. Air conditioning: No window type on avenue or street side are permitted. Window mounted air conditioners are not allowed at rear where abutting residential.
23. Exterior lighting fixtures: Any lighting fixtures that can be traced to 1880-1915 period is permitted. Simple modern fixtures that are

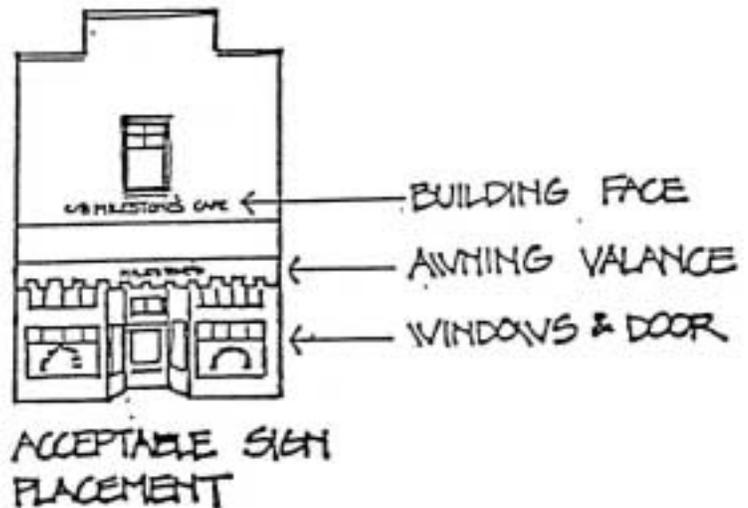
screened and/or do not attract attention are acceptable. Overlay ornate fixtures of the Victorian era are to be discouraged.

24. Transoms: Transom windows are required with extruded roofs and optional with awnings. Transom windows shall cover the front of the building above, but not beyond, the main display windows and the entryway area. Transoms should be broken up into sections every six inches to three feet in a consistent and equal pattern. Height should not exceed three feet. Transoms may or may not open. False ceilings are allowed behind the transoms.



25. Signs:
- Signs shall not exceed 10 percent of the square footage of the front elevation. The calculation of allowable signage is explained in Section 52.300. The sign(s) shall be proportionate to buildings and signs on adjacent buildings. The "10 percent" shall be broken up into multiple signs. The sign(s) shall be mounted or painted on the second floor, on the valance of the awning, on the windows at pedestrian level, or on 4 X 4 awning posts. Signs shall not

be of the internally lit "can" type or channel light type. No backlit awnings are allowed. Illumination by spotlight is permitted. Neon signs are permitted only inside the windows. No flashing signs are allowed. By temporary sign permit only, neon colored lettering or designs painted on windows or on paper or banners in the windows are allowed, but discouraged. Small signs or plaques which describe the building in a historical sense are exempt from the allowable square footage restrictions. Signs cannot project out from building face.



- b. Sign type face: Antique lettering as shown in the illustration is required. Variations are permitted where the lettering would not clash with the predominant font or style. "Gay Nineties or P.T. Barnum" type styles and other exaggerated styles are discouraged. Lettering may be horizontal, vertical, or slanting up from lower left to upper right. Semi-circle designs on windows are permitted. Window lettering should be either white, black, or gold with black shading.



## **BROKER SHADED**

Caslon Antique

## **Antique Bold**

## **BETON OPEN**

*Century Shaded*

## **ENGRAVERS**

- c. Temporary signs: Temporary sandwich board signs are permitted and shall be designed to be consistent with the aforementioned sign and type face provision.
26. Planters: No planters are allowed.
27. Paint colors: Body color typically included white, cream, or a light warm color of low intensity. Accents, trims, windows, etc. should be dark colored. Contrasting colors should be compatible. Existing colors shall not enjoy protected status when repainting is proposed. A palette or color wheel of acceptable 1880-1915 period colors shall be the basis for color selection. No other colors are allowed. The palette is available at the Planning Department.
28. Ornamental or advertising flags, pennants, or banners: Not permitted on buildings.
29. New materials: Permitted where it is demonstrated that new material visually replicates originally required material, except siding, which must be wood.

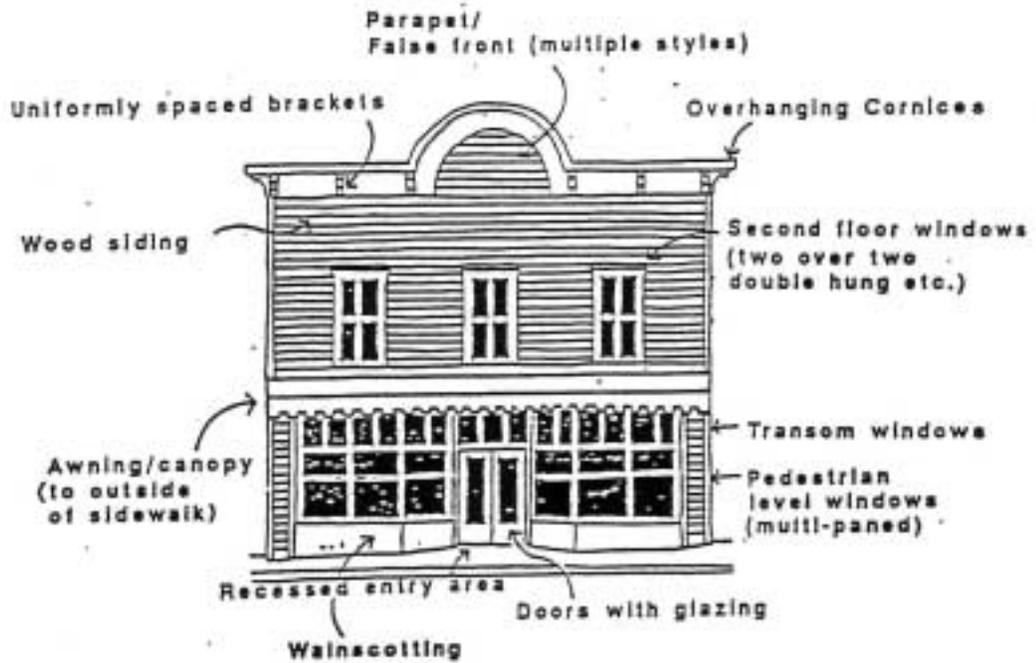
### **58.100 VARIANCE PROCEDURES**

In those circumstances where a design proposal cannot meet the standards, or proposes an alternative to the standard, the Historic Review Board may grant a variance in those cases where one of the following criteria is met:

1. The applicant can demonstrate by review of historical records or photographs that the alternative is correct and appropriate to

architecture in the region, and especially West Linn, in 1880-1915.

2. The applicant is incorporating exceptional 1880-1915 architecture into the building which overcompensates for an omission. The emphasis is upon superior design, detail, or workmanship.



(AMENDED PER ORD. 1474; 9/01)

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## **59.000 WILLAMETTE NEIGHBORHOOD MIXED USE TRANSITIONAL ZONE.**

### **59.010 PURPOSE**

The purpose of the mixed use/transitional zone is to provide for a transitional area between commercial and residential zones with a desirable mix of residential land uses with limited commercial land uses. The limited commercial uses allowed in this district are selected for their compatibility with residential uses and their ability to meet the needs of the neighborhood. Uses in this district are intended to be compatible with the design and aesthetic qualities of the adjacent neighborhood. This zone is intended to implement the Willamette neighborhood plan as authorized by the policies set forth in the Comprehensive Plan. (ORD 1515)

### **59.020 PROCEDURES AND APPROVAL PROCESS**

- A. A use permitted outright, Section 25.530, is a use that requires no approval under the provisions of this Code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- B. A use permitted under prescribed conditions, Section 25.550, is a use for which approval will be granted provided all conditions are satisfied and,
  - 1. The Planning Director shall make the decision in the manner provided by Section 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and,
  - 2. The decision may be appealed by the applicant to the Planning Commission as provided by Section 99.240(A).
- C. The approval of a conditional use (Section 25.560) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.
- D. The following Code provisions may be applicable in certain situations:
  - 1. Chapter 65, Non-conforming Uses in Structures.
  - 2. Chapter 66, Non-conforming Structures.

3. Chapter 67, Non-conforming Uses of Land.
4. Chapter 68, Lots of Record.
5. Chapter 75, Variances. (ORD 1515)

**59.030 PERMITTED USES**

The following are uses permitted outright in this zone:

1. Single-family detached dwelling
2. Multi-family dwelling
3. Common-wall single-family dwellings above a permitted use
4. Residential use of the second floor or a portion of the ground floor of a permitted use
5. Residential home
6. Family day care
7. Home occupations Type 1 & Type 2
8. Bed and Breakfast lodging (ORD 1515)

**59.040 ACCESSORY USES**

Accessory uses are allowed in this zone as provided by Chapter 34. (ORD 1515)

**59.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions:

1. Signs, subject to the following provisions:
  - a. Wall signs: shall not exceed 10 percent of the square footage of the front elevation. The calculation of allowable signage is explained in Section 52.300. The sign(s) shall be proportionate to buildings and signs on adjacent buildings. The 10 percent shall be broken up into multiple signs. The sign(s) shall be mounted or painted on the second floor, on the valance of the awning, on the windows at pedestrian level, or on 4X4 awning posts.
  - b. Ground-mounted signs. One ground mounted sign is

permitted in the front yard with a maximum size of 16 square feet, a maximum height of 4 feet, and a minimum setback of 5 feet from the right-of-way.

- c. No signs shall be the internally-lit “can” type. No backlit signs are permitted. Illumination by spotlight is permitted for either sign type. Neon signs are permitted only inside the windows. No flashing signs are allowed. By temporary sign permit only, neon colored lettering or designs painted on windows or on paper or banners in the windows are allowed, but discouraged. Small signs or plaques that describe the building in a historical sense are exempt from the allowable square footage restrictions. Signs cannot project from the building face.
  - d. Temporary signs: Temporary sandwich board signs are permitted without the temporal restrictions of Chapter 52.
  - e. All other provisions of Chapter 52: Signs are applicable unless they conflict with the provisions of this Chapter.
- 2. Temporary use, subject to the provisions of Chapter 35.
  - 3. Home occupations, subject to the provisions of Chapter 37. (ORD 1515)

### **59.060 CONDITIONAL USES**

Only the following conditional uses are allowed in this zone subject to the provisions of Chapter 60, Conditional Uses:

- 1. Children’s day care center.
- 2. Community center for civic or cultural events.
- 3. Small appliance repair services.
- 4. Governmental offices.
- 5. Religious institution.
- 6. Senior or community center.

7. Public support and public safety facilities, including public parking lots.
8. Nursery.
9. Parks and open space.
10. Boutiques.
11. Small business equipment sales and service.
12. Craft shops.
13. Cultural exhibits and library services.
14. Eating and drinking establishments except no drive-through service.
15. Retail sales and service, except no drive-through service.
16. Professional and administrative services.
17. Medical or dental offices or clinics.
18. Financial, insurance, and real estate services, except no drive-through service.

(ORD 1515)

**59.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS**

- A. Except as may be otherwise provided by the provisions of this Code, the following are the requirements for uses within this zone:
  1. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
  2. The average minimum lot width shall be 50 feet.
  3. The average minimum lot depth shall not be less than 90 feet.
  4. The minimum yard dimensions or minimum building setback area from the lot line shall be:
    - a. For a front yard, 12 feet minimum and 20 feet maximum to the structure, except that a porch, patio, or pedestrian amenity may be 6

feet from the front property line.

- b. For an interior side yard, 7-1/2 feet.
- c. For a side yard abutting a street, 12 feet.
- d. For a rear yard, 20 feet. However, where the use abuts a residential district, the setback distance required in the residential district shall apply, and within the setback area a buffer of at least 10 feet of landscaping in addition to a fence is required.
  5. The maximum building height shall be two stories above grade, or 35 feet, whichever is less.
  6. Maximum building size for all floors shall not exceed 6,000 square feet above grade excluding porches.
  7. The building floor area ratio shall be .4, except that the ground floor of the building shall not exceed 5,000 square feet.
  8. The minimum lot size shall be 4,500 square feet and the maximum lot size shall be 10,000 square feet, unless defined as an existing lot of record.

B. Design Standards. All uses in the mixed-use zone shall comply with the provisions of Chapter 55, except for Section 55.100 (7) (a, b, c, h, i, and j). Further, single-family and duplex residential uses shall also comply with the Class I design review standards. In addition, the design standards described below apply to all uses.

1. Residential style building with single story porch on the front, and on the side where it abuts a street.
2. New sidewalk construction shall be allowed to match the historical sidewalk standards in this zone.
3. Off-street parking shall be behind, under, or on the side of building.
4. Garages shall not extend any closer to the street than the

street-facing façade of the house.

5. There shall be no illuminated outdoor advertising on accessory buildings, equipment, or vending machines. (ORD 1515)
6. These design standards , (B) (1) through (5) above, shall not apply to public facilities such as reservoirs, water towers, treatment plants, fire stations, pump stations, power transmission facilities, etc. it is recognized that many of these facilities due to their functional requirements, cannot readily be configured to meet these design standards. However, attempts shall be made to make the design sympathetic to surrounding properties through compatible architecture, enhanced landscaping, setbacks, buffers, and other reasonable means. (ORD. 1565)

#### **59.080 ADDITIONAL USE REQUIREMENTS**

In addition to all other provisions of this section, the following additional requirements may apply:

1. Permitted uses may only be open from 6 a.m. to 10 p.m. and are subject to the noise provisions of Chapter 55.
2. Exterior business activity shall not take place beyond the rear wall of the building when the subject property abuts a residential district, except for parking and refuse storage. Refuse storage must be buffered or enclosed and may not abut a property line that adjoins a residential zone.
3. If a qualified historic residential landmark in the Willamette neighborhood is destroyed, it may be rebuilt on the original building footprint. (ORD 1515)

#### **59.090 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES**

Except as may otherwise be established by this Code, the appropriate lot size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in Section 60.070 (1) and (2).

(ORD 1515)

## **59.100 OTHER APPLICABLE DEVELOPMENT STANDARDS**

The provisions of Chapter 25, Sections 25.060, 25.070, 25.080, and 25.090, apply to properties currently identified in the West Linn historic inventory, Chapter 26, Historic Landmarks. The following standards apply to all development including permitted uses:

1. Chapter 28, Willamette River Greenway.
2. Chapter 36, Manufactured Homes.
3. Chapter 30, Wetlands and Riparian Area.
4. Chapter 34, Accessory Structures.
5. Chapter 35, Temporary Uses.
6. Chapter 37, Home Occupations.
7. Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards and Projections into Yards.
8. Chapter 40, Building Height Limitations and Exceptions.
9. Chapter 42, Clear Vision Areas.
10. Chapter 44, Fences, Screening of Outdoor Storage.
11. Chapter 48, Access.
12. Chapter 46, Off-Street Parking and Loading, except for the provisions of Section 46.140, apply to all uses.
13. Chapter 55, Design Review.
14. Chapter 54, Installation and Maintenance of Landscaping.
15. Chapter 53, Sidewalk Use.

(ORD. 1547; 2/07. ORD. 1565 4/08)



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## **DISCRETIONARY PROVISIONS**

### **60.000      CONDITIONAL USES**

#### **60.010      PURPOSE**

The purpose of this chapter is to provide standards and procedures under which conditional uses may be permitted, enlarged, or altered if the site is appropriate and if other conditions can be met.

- A.     The Planning Commission may approve an application subject to a specific time period, at the termination of which there will be a renewal hearing. The decision at the renewal hearing shall be based on the factors in B1 and B2 below.
- B.     Approval of a conditional use shall be void after one year or such lesser time as the approval may specify, unless substantial construction pursuant thereto has taken place. The Planning Commission after a public hearing as provided by Section 99.060(B) may extend authorization for an additional period not to exceed one year, on request and a finding that:
  - 1.     There have been no changes in the facts on which the approval was based; and,
  - 2.     There have been no changes in the policy or applicable standards on which the approval was based.

#### **60.030      ADMINISTRATION AND APPROVAL PROCESS**

- A.     Conditional use applications shall be decided by the Planning Commission in the manner set forth in Section 99.060(B). A petition for review by Council may be filed as provided by Section 99.240(B).
- B.     All approved conditional use applications shall be subject to Design Review under the provisions of Chapter 55, and in the manner set forth in Section 99.060(B).

#### **60.040      TIME LIMIT ON A CONDITIONAL USE APPROVAL**

Approval of a conditional use by the Commission shall be void after three years if:

1. Substantial construction of the approval plan has not begun within that three-year period.
2. Construction on the site is a departure from the approved plan.

(ORD. 1408)

**60.050 BUILDING PERMITS FOR AN APPROVED CONDITIONAL USE**

- A. Building permits for all or any portion of a conditional use shall be issued only on the basis of the conditional use plan and conditions as approved by the Planning Commission.
- B. Any change in the conditional use plan or conditions of approval shall require a new application and hearing pursuant to the provisions set forth in this Chapter and Section 99.120(B).

**60.060 THE APPLICATION**

- A. A conditional use application shall be initiated by the property owner or the owner's authorized agent.
- B. A prerequisite to the filing of an application is a pre-application conference at which time the Director shall explain the requirements and provide the appropriate forms as specified in Section 99.030(B) and (C).
- C. A pre-requisite to the filing of an application is a meeting with the respective City recognized neighborhood association, per CDC Section 99.038, at which time the applicant will present his/her proposal and receive comments. (ORD. 1401)

- D. An application for a conditional use shall include the completed application form and:
  1. A narrative which addresses the approval criteria set forth in Section 60.070 and which sustains the applicant's burden of proof; and,
  2. A site plan as provided by Section 60.080.

One original application form must be submitted. Three copies at the original scale and three copies reduced to 11 X 17 or smaller of all drawings and plans must be submitted. Three copies of all other items

must be submitted. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department. (ORD. 1442)

- E. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.
- F. The applicant shall pay the requisite fee.

**60.070**

**APPROVAL STANDARDS AND CONDITIONS**

- A. The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use, except for a manufactured home subdivision in which case the approval standards and conditions shall be those specified in Section 36.030, or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria:
  - 1. The site size and dimensions provide:
    - a. Adequate area for the needs of the proposed use; and,
    - b. Adequate area for aesthetic design treatment to mitigate any possible adverse effect from the use on surrounding properties and uses. (ORD. 1291)
  - 2. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features.
  - 3. The granting of the proposal will provide for a facility that is consistent with the overall needs of the community.
  - 4. Adequate public facilities will be available to provide service to the property at the time of occupancy. (ORD. 1544)
  - 5. The applicable requirements of the zone are met, except as modified by this chapter.
  - 6. The supplementary requirements set forth in Chapters 52 to 55, if applicable, are met.
  - 7. The use will comply with the applicable policies of the Comprehensive Plan.
- B. An approved conditional use or enlargement or alteration of an existing

conditional use shall be subject to the development review provisions set forth in Chapter 55.

C. The Planning Commission may impose conditions on its approval of a conditional use which it finds are necessary to assure the use is compatible with other uses in the vicinity. These conditions may include, but are not limited to, the following:

1. Limiting the hours, days, place, and manner of operation.
2. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor, and dust.
3. Requiring additional setback areas, lot area, or lot depth, or width.
4. Limiting the building height, size or lot coverage, or location on the site.
5. Designating the size, number, location and design of vehicle access points.
6. Requiring street right-of-way to be dedicated and the street to be improved including all steps necessary to address future street improvements identified in the adopted Transportation System Plan. (ORD. 1544)
7. Requiring participation in making the intersection improvement or improvements identified in the Transportation System Plan when a traffic analysis (compiled as an element of a condition use application for the property) indicates the application should contribute toward. (ORD. 1544)
8. Requiring landscaping, screening, drainage, and surfacing of parking and loading areas.
9. Limiting the number, size, location, height, and lighting of signs.
10. Limiting or setting standards for the location and intensity of outdoor lighting.
11. Requiring berming, screening, or landscaping and the establishment of standards for their installation and maintenance.

12. Requiring and designating the size, height, location, and materials for fences.
  13. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, and drainage areas.
- D. Aggregate extraction uses shall also be subject to the provisions of ORS 541.605.

(ORD. 1408) (ORD. 1544)

**60.080**

**SITE PLAN AND MAP**

- A. All site plans and maps shall include the name, address, and telephone number of the applicant, the scale of the site plan, north arrow, and a vicinity map.
- B. The applicant shall submit a site plan drawn to an appropriate scale (in order of preference, 1" = 10' to 1" = 30') which contains the following information:
  1. The subdivision name, block, and lot number or the section, township, range, and tax lot number.
  2. The parcel boundaries, dimensions, and gross area.
  3. The applicant's property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development to the adjacent property and development.
  4. The location, dimensions, and names of all existing and platted streets and other public ways and easements on adjacent property and on the site.
  5. The location, dimensions, and setback distances of all:
    - a. Existing structures, improvements, utilities, and drainage facilities on adjoining properties;
    - b. Existing structures, improvements, utilities, and drainage facilities to remain on the site; and,
    - c. Proposed structures or changes to existing structures,

improvements, utilities, and drainage facilities.

6. The existing and proposed dimensions of:
    - a. The entrances and exits to the site;
    - b. The parking and circulation areas;
    - c. Loading and service areas for waste disposal, loading and delivery;
    - d. Pedestrian and bicycle circulation area;
    - e. On-site outdoor recreation spaces and common areas; and,
    - f. Above ground utilities.
  7. The location of areas to be landscaped and the proposed landscape plan.
  8. The location of all trees having a six-inch caliper at a height of five feet.
- C. The applicant shall submit the site plan on a map showing two-foot contours up to 20 percent grade and 10-foot contours on grades above 20 percent.

**60.090 ADDITIONAL CRITERIA FOR TRANSPORTATION FACILITIES (TYPE II)**

- A. Construction, reconstruction, or widening of highways, roads, bridges or other transportation facilities that are (1) not designated in the adopted West Linn Transportation System Plan (“TSP”) or (2) not designed and constructed as part of an approved, active, development order are allowed in all zoning districts subject to the conditional use and all other applicable provisions of the CDC and satisfaction of all of the following criteria:
1. The project and its design are consistent with West Linn’s adopted TSP and consistent with the State Transportation Planning Rule, OAR 660-012 (“the TPR”).
  2. The project design is compatible with abutting land uses in regard to noise generation and public safety and is consistent with the applicable zoning and development standards and criteria for the abutting properties.

3. The project design minimizes environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities, and a site with fewer environmental impacts is not reasonably available.
  4. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
  5. The project includes provisions for bicycle and pedestrian access and circulation consistent with the comprehensive plan, the requirements of this ordinance, and the TSP.
- B. State transportation system facility or improvement projects. The State Department of Transportation (“ODOT”) shall provide a narrative statement with the application demonstrating compliance with all of the criteria and standards in Section 60.090(A)(1-5). Where applicable, an Environmental Impact Statement or Environmental Assessment may be used to address one or more of these criteria.
- C. Proposal inconsistent with TSP/TPR. If the City determines that the proposed use or activity or its design is inconsistent with the TSP or TPR, then the applicant shall apply for and obtain a plan and/or zoning amendment prior to or in conjunction with conditional use permit approval.

(AMENDED PER ORD. 1442; 10/99; ORD. 1547 2/07; ORD. 1584 12/08)



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**65.000 NON-CONFORMING USES INVOLVING A STRUCTURE**

**65.010 PURPOSE**

The zones applied within the City after the effective date of this Code may cause some existing uses in structures to become prohibited uses in the particular zone in which they are located. The purpose of this chapter is to permit these non-conforming uses to be continued until they are removed or discontinued.

Non-conforming uses are incompatible with the permitted uses in the zone; therefore, standards are required to assure that changes in the scope of the use are, or can be, made compatible with the permitted uses in the zone.

**65.030 EXCEPTIONS TO THE NON-CONFORMING USE PROVISIONS**

A. Prior listed permitted uses. This provides for an exception to the non-conforming use provisions for uses which were prior listed permitted uses in the following zones (Neighborhood Commercial, General Commercial, Office-Business Center, Campus Industrial and General Industrial), which were superceded by the Code and which were legally established prior to the effective date of this Code. The following shall apply:

1. A use which was permitted outright and is not listed in the applicable zone as a use permitted outright shall be deemed to be a conforming conditional use and shall be subject to the provisions of Chapters 60, Conditional Uses, and 55, Design Review.
2. A use which was permitted outright, but which is a conditional use in the applicable zone, shall be deemed to be a conforming conditional use and change shall be subject to the provisions of Chapters 60, Conditional Uses, and 55, Design Review.

B. Prior listed conditional uses. This sub-section provides for an exception to the non-conforming use provisions for uses which were prior listed conditional uses in the following zones: Neighborhood Commercial, General Commercial, Office-Business Center, Campus Industrial and

General Industrial, which were superceded by this Code and which were legally established prior to the effective date of this Code, and which are not a listed conditional use in the applicable zone, shall be deemed to be a conforming conditional use and any changes shall be subject to the provisions of Chapters 60, Conditional Uses, and 55, Design Review.

C. Uncompleted construction.

1. In order to avoid undue hardship, this Code does not require any change in the location, plans, construction, size, or use of a lot or structure, or part thereof, for which a final development approval or building permit was received prior to the date of adoption of this ordinance if construction of the structures or the use is established within one year of the effective date or in accordance with an approved development schedule; however,
  - a. If a building permit is revoked or for any reason becomes void, all rights granted by this section are extinguished and thereafter all requirements of the Code shall be met; and
  - b. The structure and uses shall be controlled by the provisions of this chapter and Chapters 66 and 67.

**65.040 STANDARDS APPLICABLE TO EXCEPTIONS TO THE NON-CONFORMING USE PROVISIONS**

- A. Uses made exceptions to the non-conforming use provisions by Section 65.030(A) and (B) shall be governed by the following:
  1. Upon discontinuance of the use as provided by Section 65.070(A) (1-4), any new use shall conform to the provisions of the applicable zone in this Code. (ORD. 1211)

**65.050 DETERMINATION OF NON-CONFORMING USE STATUS**

- A. The Planning Director shall make a determination regarding non-conforming use status.
- B. Upon application and payment of fees, the determination by the Planning

Director of the non-conforming status may be appealed to the Planning Commission sitting as a fact-finding body pursuant to Section 103.040.

- C. A petition for review by the Council sitting as a fact finding body may be taken pursuant to Section 103.040.

**65.060 STATUS OF NON-CONFORMING USES**

A non-conforming use may be continued, although it does not conform to the provisions of the applicable zone in which it is located, subject to the provisions of Sections 65.070 through 65.100.

**65.070 DISCONTINUATION OF NON-CONFORMING USE**

If a non-conforming use is discontinued or abandoned for a period of one year, any use of the property from that time forward shall be in full conformity with the provisions of the applicable zone. For the purpose of computing the time period, a use is deemed discontinued or abandoned upon the occurrence of the first of any of the following events:

- A. On the date when the structure and/or premises are vacated.
- B. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services.
- C. On the date of termination of any lease or contract under which the non-conforming use has occupied the premises.
- D. On the date a request for final reading of water meter is made to the City Utilities Department. (ORD. 1211)
- E. The structure is damaged, removed or moved as provided by Section 66.070. (ORD. 1211)

**65.080 ALTERATIONS REQUIRED BY LAW**

The Planning Director shall permit the alteration of any non-conforming use when it is required by law, rule, ordinance, or regulation.

**65.090 MAINTENANCE**

A structure or portion of a structure containing a non-conforming use may be maintained in terms of normal repairs or replacement of non-bearing walls,

fixtures, wiring, or plumbing performed in a manner not in conflict with the other provisions of the City code. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

**65.100 EXPANSION OF THE USE WITHIN THE SAME STRUCTURE OR ALTERATION TO THE STRUCTURE**

An expansion of the use within the same structure or an alteration to the structure may be permitted subject to review and approval by the Planning Commission under the provisions of Sections 65.110 to 65.140 of this chapter.

**65.110 BUILDING PERMITS FOR AN APPROVED NON-CONFORMING USE**

- A. Building permits for all or any portion of a non-conforming use shall be issued only on the basis of the site plan and conditions as approved by the Planning Commission.
- B. Any change in the site plan or conditions of approval shall require a new application and hearing pursuant to the provisions set forth in this Chapter and Section 99.120(B).

**65.120 THE APPLICATION**

- A. An application to enlarge a non-conforming use or to alter a structure containing a non-conforming use shall be initiated by the property owner or the owner's authorized agent.
- B. A pre-requisite to the filing of an application is a pre-application conference at which time the Planning Director shall explain the requirements and provide the appropriate forms.
- C. An application shall include the completed application form and:
  - 1. A narrative which addresses the approval standards set forth in Section 65.130 and which sustains the applicant's burden of proof.
  - 2. A site plan as provided by Section 65.140.

One original application form must be submitted. Three copies at the original scale and three copies reduced to 11 X 17 inches or smaller of all drawings and plans must be submitted. Three copies of all other items must be submitted. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department. (ORD. 1442)

D. The applicant shall pay the requisite fee.

**65.130**

**APPROVAL STANDARDS AND CONDITIONS**

A. The Planning Commission shall approve, approve with conditions, or deny an application to enlarge a non-conforming use or alter a structure containing a non-conforming use based on the provisions set forth in Section 99.060(B) and findings of fact on each of the following:

1. The granting of the enlargement or alteration will provide for a facility that is consistent with the overall needs of the community.
2. The characteristics of the site can accommodate the change considering size, shape, location, topography, and natural features;
3. The site size and dimensions provide adequate area for aesthetic design treatment to eliminate any possible adverse effects from the use on surrounding properties and uses;
4. All required public facilities have adequate capacity to serve the proposal;
5. The alteration to the structure or expansion of the use will have no greater impact on the surrounding properties, community, or public facilities than existed at the time this application was made;
6. The applicable dimensional requirements of the zone are met;
7. The applicable supplementary requirements set forth in Chapters 33 to 55 are met; and
8. The use will comply with the applicable policies of the Comprehensive Plan.

- B. All approved enlargements or alterations to an existing non-conforming use shall be subject to the design review provisions set forth in Chapter 55.
- C. The Planning Commission, as provided by Section 99.120, may impose conditions on its approval which it finds are necessary to assure the use is compatible with other uses in the vicinity. These conditions may include, but are not limited to the following:
  - 1. Limiting the house, days, place, and manner of operation;
  - 2. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor, and dust;
  - 3. Requiring additional setback areas, lot area, or lot depth or width;
  - 4. Limiting the building height, size or lot coverage, or location on the site;
  - 5. Designating the size, number, location, and design of vehicle access points;
  - 6. Requiring street right-of-way to be dedicated and the street to be improved;
  - 7. Designating the location and size of the vehicle access points;
  - 8. Requiring landscaping, screening, drainage, and surfacing of parking and loading areas;
  - 9. Limiting the number, size, location, height, and lighting of signs;
  - 10. Limiting or setting standards for the location and intensity of outdoor lighting;
  - 11. Requiring berming, screening, or landscaping and the establishment of standards for the installation and maintenance;
  - 12. Requiring and designating the size, height, location, and materials for fences; and
  - 13. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, and drainage areas.

**65.140 SITE PLAN(S) AND MAPS**

- A. All site plans and maps shall include the name, address, and telephone number of the applicant, the scale of the site plan, north arrow and vicinity map.
- B. The applicant shall submit a site plan drawn to an appropriate scale (in order of preference; 1' = 10' to 1' = 30') which contains the following:
  - 1. The subdivision name, block, and lot number or the section, township, range, and tax lot number.
  - 2. The parcel boundaries, dimensions, and gross area.
  - 3. The applicant's property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development to the adjacent property and development.
  - 4. The location, dimensions, and names of all existing and platted streets and other public ways and easements on adjacent property and on the site.
  - 5. The location, dimensions, and setback distances of all:
    - a. Existing structures, improvements, utility, and drainage facilities on adjoining properties;
    - b. Existing structures, improvements, utility, and drainage facilities to remain on the site; and
    - c. Proposed structures or changes to existing structures, improvements, utility, and drainage facilities on the site.
  - 6. The existing and proposed location and dimensions of:
    - a. The entrances and exits to the site;
    - b. The parking and circulation areas;
    - c. Loading and service areas for waste disposal, loading, and delivery;
    - d. Pedestrian and bicycle circulation areas;

- e. On site outdoor recreation spaces and common areas; and
- f. Above ground utilities.
- 7. The location of areas landscaped and proposed to be landscaped.
- 8. The location and type of outdoor lighting with specific consideration given to crime prevention.
- C. The applicant shall submit the site plan on a map showing two-foot contours up to a 20 percent grade and 10-foot contours on grades above 20 percent.

(AMENDED PER ORD. 1442; 10/99)

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**66.000 NON-CONFORMING STRUCTURES**

**66.010 PURPOSE**

The zones applied within the City after the effective date of this Code may cause some existing structures to become non-conforming in terms of meeting the zone lot coverage, setback, parking, building height, or landscaping requirements. The purpose of this chapter is to permit these non-conforming structures to be used until they are destroyed or made conforming.

**66.030 EXCEPTIONS**

- A. The provisions of this chapter do not apply to lawful pre-existing single-family dwellings except that the enlargement or alterations to a single-family dwelling shall be as provided by Section 66.070.
- B. A structure for which a variance was granted under the zoning provisions in effect prior to the effective date of this Code is not considered non-conforming solely due to the fact that the structure for which the variance was granted fails to comply with the requirements of this Code. The existence of such a variance does not prevent the structure from being classified as non-conforming if some other characteristics of the use or structure fail to comply with the requirements of this chapter.

**66.040 DETERMINATION OF STATUS**

- A. The Planning Director shall make a determination regarding non-conforming status without giving notice.
- B. However, upon application and payment of fees, the determination by the Planning Director of the non-conforming status may be appealed to the Planning Commission sitting as a fact finding body pursuant to Section 03.040.
- C. A petition for review by the Council sitting as a fact finding body may be taken pursuant to Section 103.080.

**66.050 STATUS OF NON-CONFORMING STRUCTURES**

A non-conforming structure may be maintained although it does not conform to the provisions of the applicable zone in which it is located subject to the provisions of Sections 66.060 through 66.100.

**66.060 DISCONTINUANCE OR CHANGE OF CONFORMING USE IN A NON-CONFORMING STRUCTURE**

Should the owner or occupant discontinue or change the use of a non-conforming structure, it shall be unlawful and a violation of this Code to begin or maintain such altered use until the off-street parking spaces and loading area requirements of Chapter 46, and the access, egress, and circulation requirements of Chapter 48 are met, or until the appropriate approval authority under Chapter 99 has approved the change.

**66.070 DESTRUCTION, MOVEMENT OF STRUCTURES**

- A. If a non-conforming structure is damaged or destroyed by any means to the extent that the cost of rebuilding the damaged portions would exceed 50 percent of the then current replacement cost of the entire building, the rebuilding shall conform fully to City codes and standards. Determination of the rebuilding costs shall be made by the Building Official, who may utilize an appraisal to determine current replacement costs. If the damage is 50 percent or less, the rebuilding or reconstruction shall be commenced within one year of the date of damage or destruction, and shall be completed within two years. Under such circumstances, the reconstruction shall comply with the terms of this Code.
- B. Should such a structure be moved for any reason for any distance whatever, excluding elevating the structure to construct or replace the foundation, it shall thereafter conform to the regulations for the zone in which it is newly located.

**66.080**

**ENLARGEMENT OR ALTERATION TO A NON-CONFORMING STRUCTURE: PROCESS AND APPROVAL STANDARDS**

- A. An enlargement or alteration to a non-conforming structure containing a non-conforming use may be permitted subject to review and approval by the Planning Commission under the provisions of Section 99.060(B) and Sections 65.120 through 65.140.
- B. An enlargement or alteration to a non-conforming structure containing a conforming use may be permitted subject to the following:
  - 1. If the enlargement, in and of itself, meets all provisions of this Code, the enlargement will be permitted. This exception does not preclude design review or other applicable provisions of this Code.  
(ORD. 1192)
  - 2. If the enlargement, in and of itself, does not meet all provisions of the Code, review and approval by the Planning Director for single-family structures, and by the Planning Commission for non-single-family structures under the provisions of Section 99.060(B) is required subject to the following standards.  
(ORD. 1192)
    - a. The enlargement or alteration will not change the non-conformity; and
    - b. All other applicable ordinance provisions will be met.

**66.090**

**NON-CONFORMING STRUCTURE UNSUITED FOR A CONFORMING USE**

A non-conforming use involving a structure is replaced by another use, the new use shall conform to this Code unless the Planning Commission, after a public hearing held pursuant to Chapter 99, determines that such a structure is suitable only for another non-conforming use, so long as the new use is no more intense than the past use or other uses contemplated in the zone. The determination by the Planning Commission shall be based on findings of fact which support its determination of suitability. (ORD. 1287)

**66.100 BUILDING PERMITS FOR AN APPROVED NON-CONFORMING  
STRUCTURE**

The provisions of Section 65.110 shall apply.

(AMENDED PER ORD. 1287; 6/90)

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**67.000 NON-CONFORMING USES OF LAND**

**67.010 PURPOSE**

The zones applied within the City after the effective date of this Code may cause some existing uses of land to become prohibited uses in the particular zone in which they are located. The purpose of this chapter is to permit these non-conforming uses to be continued until they are removed or discontinued. Non-conforming uses are incompatible with the permitted uses in the zone; therefore, standards are required to assure that changes in the scope of the use are, or can be made, compatible with the permitted uses in the zone.

**67.030 DETERMINATION OF STATUS**

- A. The Planning Director, without giving notice, shall make a determination regarding the non-conforming status; however
- B. Upon application and payment of fees, the determination by the Planning Director of the non-conforming status may be appealed to the Planning Commission sitting as a fact finding body pursuant to Section 103.040.
- C. A petition for review by the Council sitting as a fact finding body may be taken pursuant to Section 103.080.

**67.040 STATUS**

- A. A non-conforming use of land shall be allowed to continue; however, it shall not be:
  - 1. Enlarged, increased, or extended to occupy a greater area of land or space than was occupied at the effective date of this Code; or
  - 2. Moved in whole or in part to any portion of the lot other than that occupied on the effective date of this Code.
- B. No additional structure, building, or sign shall be constructed on the land in conjunction with the non-conforming use of land.

**67.050**

**DISCONTINUANCE**

- A. If a non-conforming use of land shall be discontinued or abandoned for any reason for a period of 120 days, any subsequent use of the land shall be for a conforming use.
- B. A use is deemed discontinued or abandoned for purpose of computing the time period upon the first time any of the events listed in Section 65.070 occur.

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**68.000 NON-CONFORMING LOTS, LOTS OF RECORD**

**68.010 PURPOSE**

The zones applied within the City after the effective date of this Code may cause some existing lots of record to be non-conforming lots in the zone in which they are located. The purpose of this chapter is to permit certain non-conforming lots to be developed provided all use, setback, and other applicable standards can be met.

**68.030 DETERMINATION OF STATUS**

- A. The Planning Director, without giving notice, shall make a determination regarding the non-conforming lot status.
- B. Upon application and payment of fees, the determination by the Planning Director of the non-conforming lot of record status may be appealed to the Planning Commission sitting as a fact finding body pursuant to Section 103.040.
- C. A petition for review by the Council sitting as a fact finding body may be taken pursuant to Section 103.080.

**68.040 STATUS**

- A. A sub-standard lot of record in any residential zoning district except the Willamette Historic District, as regulated in Chapter 26, may be developed for a use allowed within the applicable zone provided:
  - 1. The lot is 5,000 square feet or greater in size; except in the R-5, R-4.5 and R-2.1 zones in which case the minimum lot sizes shall be 4,500, 4,000 and 4,000 square feet, respectively; and,
  - 2. All single-family dwellings shall have a hard surface paved driveway at least 10 feet wide. (ORD. 1308)
  - 3. All applicable Code provisions including lot dimensional requirements are met except for single-family detached or attached dwellings in the R-10, R-7, R-5, R-4.5, R-3, and R-2.1 zones where the following lot dimensional requirements shall apply:

- a. The minimum front lot line shall be 30 feet.
- b. The average minimum lot width shall be 45 feet.
- c. The minimum average lot depth shall be 80 feet.
- d. The minimum front yard shall be 18 feet except for steeply sloping lots in which case the provisions of Section 41.010 shall apply.
- e. The minimum interior side yard for the principal structure including all protrudances, shall be 3 feet.
- f. The minimum side yard abutting street shall be 13 feet.
- g. The minimum rear yard shall be 15 feet.

(ORD.1408)

4. Variances have been granted under the provisions of Chapter 75 for Class II variances.
5. The following improvement standards are satisfied:
  - a. Streets. The streets shall have a hard, all-weather surfacing of either asphaltic concrete or Portland cement, laid over a sub-base of not less than six inches of crushed rock. Said street shall be at least 12 feet in width or not less than the width of the existing street improvements onto which the proposed improvements will connect. The improvements shall extend through the driveway.
  - b. Water. The City Engineer shall review the proposal and require a system that will deliver adequate domestic use and acceptable protection facilities and flows. The City shall participate in costs when oversizing pipes above six inches in diameter is required.
  - c. Power, phone, cable, gas. Each utility shall address its own requirements as needed. The City strongly suggests underground power, phone, and cable where field conditions

allow. Street lights shall be the City's option.

- d. Sanitary sewer. Each developed lot shall be connected to the sanitary sewer at developer cost.

(AMENDED PER ORD. 1408; 2/98)

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**75.000 VARIANCE**

**75.010 PURPOSE**

The purpose of this chapter is to provide standards for the granting of variances from the applicable zoning requirements of this Code where it can be shown that, owing to exceptional and extraordinary circumstances related to a specific piece of property, the literal interpretation of the provisions of applicable zone would create a burden upon a property owner with no corresponding public benefit, except that no use variance shall be granted. (ORD. 1442)

**75.020 CLASSIFICATION OF VARIANCES**

- A. A Class I variance will involve a small change from the zoning requirements and will have a minor effect or no effect on adjacent property or occupants and includes the following variances:
  - 1. A variance which allows a structure to encroach into a required setback area as follows:
    - a. Front yard setback by two feet or less.
    - b. Side yard setback by two feet or less.
    - c. Rear yard setback by five feet or less.
  - 2. A variance to the minimum lot dimensional requirements as follows:
    - a. Lot width by five or less feet.
    - b. Lot frontage by five or less feet.
    - c. Lot depth by ten or less feet.
    - d. Lot area by five percent or less of minimum required area.
- B. A Class II variance will involve a significant change from the zoning requirements and may create adverse impacts on adjacent property or occupants, and includes the following variances:
  - 1. A variance which allows a structure to encroach into a required setback area as follows:
    - a. Front yard setback by more than two feet.
    - b. Side yard setback by more than two feet.

- c. Rear yard setback by more than five feet.
  - 2. Variances to the minimum lot dimensional requirements as follows:
    - a. Lot width by more than five feet.
    - b. Lot frontage by more than five feet.
    - c. Lot depth by more than ten feet.
    - d. Lot area by more than five percent of minimum required area.
  - 3. A variance to any of the other zoning provisions including, but not limited to, the lot coverage and building height.
- C. No variances shall be granted which will allow a use which is not a permitted or a conditional use in the district, and no variance shall be granted to the density provisions.

**75.030 ADMINISTRATION AND APPROVAL PROCESS**

- A. Class I variances shall be decided by the Planning Director in the manner set forth in Section 99.060(A). An appeal may be taken as provided by Section 99.240(A).
- B. Class II variances shall be decided by the Planning Commission in the manner set forth in Section 99.060(B). A petition for review by the Council may be filed as provided by Section 99.240(B).

**75.040 TIME LIMIT ON A VARIANCE**

Approval of a variance shall be void after three years unless substantial construction pursuant thereto has taken place. (ORD. 1408)

**75.050 THE APPLICATION**

- A. A variance request shall be initiated by the property owner or the owner's authorized agent.
- B. A prerequisite to the filing of an application is a pre-application conference at which time the Planning Director shall explain the requirements and provide the appropriate form(s).
- C. An application for a variance shall include the completed application form and:

1. A narrative which addresses the approval criteria set forth in Section 75.060, and which sustains the applicant's burden of proof.

2. A site plan as provided by Section 75.070.

One original application form must be submitted. Three copies at the original scale and three copies reduced to 11 X 17 inches or smaller of all drawings and plans must be submitted. Three copies of all other items must be submitted. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department.

D. The applicant shall pay the requisite fee.

(ORD. 1442)

## **75.060**

### **THE APPROVAL CRITERIA**

The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared. The approval authority may impose appropriate conditions to ensure compliance with the criteria.

The approval authority shall deny the variance if any of the criteria are not met.

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, topography, or other circumstances over which the applicant has no control.
2. The variance is necessary for the preservation of a property right of the applicant, which is substantially the same as a right possessed by owners of other property in the same zone or vicinity.
3. The authorization of the variance will not be materially detrimental to the purposes and standards of this Code, will not be inconsistent with all other regulatory requirements, and will not conflict with the goals and policies of the West Linn Comprehensive Plan.
4. The variance request is the minimum variance, which would alleviate the exceptional and extraordinary circumstance.
5. The exceptional and extraordinary circumstance does not arise from the

violation of this ordinance.

6. The variance will not impose physical limitations on other properties or uses in the area, and will not impose physical limitations on future use of neighboring vacant or underdeveloped properties as authorized by the underlying zoning classification.

(ORD. 1442)

**75.070 SITE PLANS AND MAP**

- A. All plot plans and maps shall include the name, address, and telephone number of the applicant; the scale; north arrow; and a vicinity map.
- B. The applicant shall submit a plot plan drawn to an appropriate scale (in order of preference; 1" = 10' to 1" = 30') which shows the following:
  1. The subdivision name, block, and lot number or the section, township, range, and tax lot number.
  2. In the case of a request for a variance to a lot dimensional or building setback requirement:
    - a. The lot configuration and dimensions, and the location of all existing structures on the lot; the setback distances and the location of all structures on abutting lots, and the setback distances; and,
    - b. The proposed variances.
  3. In the case of a request for a variance to the building height provisions:
    - a. An elevation drawing of the structure and the proposed variances; and,
    - b. A drawing(s) to scale showing the impact on adjoining properties; for example, will the height variance, if granted, block a viewpoint from an adjoining property of a significant land feature?

(AMENDED PER ORD. 1442; 10/99)

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**80.000 UNLISTED USES; AUTHORIZATION OF SIMILAR USES**

**80.010 PURPOSE**

It is not possible to contemplate all of the various uses which will be compatible within a particular zone. Therefore, unintentional omissions occur. The purpose of these provisions is to establish a procedure for determining whether certain specific uses would have been permitted in a zone had they been contemplated, and whether such unlisted uses are compatible with the listed uses.

**80.030 DETERMINATION PROCESS**

- A. Upon application and payment of fees, the determination regarding an unlisted use shall be made by the Commission pursuant to the provisions of Section 80.050 of this Chapter subject to the limitation set forth in Section 80.040.
- B. The Planning Director shall maintain a list by zone of approved unlisted uses, and the list shall have the same affect as an amendment to the use provisions of the applicable zone.

**80.040 LIMITATION**

The Commission shall not authorize an unlisted use in a zone if the use is specifically listed in another zone as either a permitted use or a conditional use.

**80.050 APPROVAL STANDARDS**

Approval or denial of an unlisted use application by the Commission shall be based on findings that:

- 1. The use is consistent with the Comprehensive Plan;
- 2. The use is consistent with the intent and purpose of the applicable zone;
- 3. The use is similar to, and of the same general type as the uses listed in the zone;
- 4. The use has similar intensity, density, and off-site impacts as the uses listed in the zone; and
- 5. The use has similar impacts on the community facilities as the listed use.

(AMENDED PER ORD. 1339; 2/93)



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## **81.000 BOUNDARY CHANGES**

### **81.010 PURPOSE**

The purpose of this chapter is to carry out the provisions of ORS 268.354 and Metro Code Chapter 3.09. This chapter provides standards and procedures for all boundary change proposals and step one review of annexation proposals. The step one review process is a land use decision which shall determine whether the proposed annexation is consistent with the intent of the West Linn Comprehensive Plan and Community Development Code. Step two review for annexation proposals shall follow the procedures outlined in Municipal Code Chapter 2. The step two process is a legislative decision by the City Council that the proposed annexation is appropriate to be placed before the voters for a final decision. For the purpose of this Chapter, the term ‘boundary change’ includes the formation, merger, consolidation, or dissolution of a city or district; annexation or withdrawal of territory to or from a city or district, or from a city-county to a city; or an extra-territorial extension of water or sewer service by a city or district.

### **81.030 ADMINISTRATION AND APPROVAL PROCESS**

- A. Boundary change proposals shall be considered by the City Council. The Council decision on the proposal shall be considered the “Final Decision” for purposes of compliance with Metro Code Chapter 3.09.
- B. Notice of the Council hearing to consider the boundary change proposal shall follow the procedures of Chapter 99.080(C) (Quasi-Judicial Amendments), as well as the uniform notice requirements provided in Metro Code Section 3.090.030.
- C. A staff report shall be issued prior to the hearing pursuant to the requirements of Section 99.040 and Metro Code 3.09.050(b).
- D. The final decision shall be made by the Council after a public hearing. The decision shall be reduced to writing and shall follow the requirements of Section 99.110 and uniform hearing requirements of Metro Code Section 3.09.050.

- E. Should a proposal for annexation of property to the City obtain final approval through this step 1 process, the proposal will be set on the agenda of a Council meeting for consideration under the step two process as set forth in Section 2.950(2)(b-d) of the City Code. A proposal for any other boundary change shall be considered pursuant to the provisions of state law.

**81.040**

**THE PETITION**

- A. A petition to annex to the City of West Linn may be initiated by a property owner(s) of the area to be annexed, or the City, as set forth in Section 2.950(1) of the City Code.
- B. A pre-requisite to the filing of an annexation petition is a pre-application conference at which time the Director shall explain the requirements and provide the appropriate forms as specified in Section 99.030(B) and (C).
- C. A petition to annex shall include the completed petition form and three copies of each of the following, except for each drawing submitted, there shall be three copies at the original scale and three copies reduced to a paper size not greater than 11 X 17 inches.
  - 1. The minimum petition requirements of Metro Code Section 3.09.040.
  - 2. A narrative which addresses the approval criteria set forth in City Code Section 2.920 and Metro Code Sections 3.09.050(d) and, if applicable, (e).
  - 3. Vicinity, legal, and other descriptive maps necessary to show compliance with City Code Section 2.920 and Metro Code 3.09.040.
- D. A petition of any type of boundary change, other than annexation, shall be processed as provided by State law and Metro Code Chapter 3.09.
- E. The applicant shall pay the requisite fee. The fee for a boundary change shall be established by resolution of the City Council.

**81.050 APPROVAL CRITERIA**

- A. The City Council shall approve or deny a boundary change proposal based on findings and conclusions addressing the following criteria:
  - 1. If an annexation, the proposal complies with the requirements of Code Section 2.920(1); and,
  - 2. For all boundary changes, the proposal complies with the criteria of Metro Code Section 3.09.050(d) and, if applicable, (e).

**81.055 ZONING DESIGNATION**

A decision on annexation shall also incorporate a decision on a zone change. The applicant may concurrently apply for a comprehensive plan amendment if desired. Any approval of an annexation shall designate the City zone to be applied if the annexation is approved by the voters. The City zone shall be designated based upon the existing West Linn comprehensive plan/land use designation, pursuant to the following table:

COMPREHENSIVE PLAN/LAND USE DESIGNATION	ASSIGNED ZONING DISTRICT
Low Density Residential	R-7, R-10, or R-15
Medium Density Residential	R-4.5
Medium High Density Residential	R-3 or R-2.1
Mixed Use	MU
Commercial	NC, GC, or OBC
Industrial	GI or CI

Where the City Council has discretion to apply zoning, the Council shall consider the following factors in making its decision:

- 1. Specific site characteristics such as topography, drainage, and existing vegetation.
- 2. The existing zoning and development patterns of surrounding properties.
- 3. The capacity of the city to provide road, sanitary sewer, storm drainage, and water service to the site. (1528)

**81.060 EXPEDITED PROCESS**

- A. A petition for any type of minor boundary change may be processed through an expedited process as provided by Metro Code Chapter 3.09.
- B. An expedited boundary change proposal shall be considered by the City Council without a public hearing. The Council decision on the proposal shall be considered the “Final Decision” for purposes of compliance with Metro Code Chapter 3.09.
- C. Petition requirements for expedited applications shall be listed in Section 81.040, except that the initiation of an expedited boundary change petition must follow the requirements of Metro Code 3.09.045(a).
- D. Notice of petition for an expedited process must be provided a minimum of 20 days prior to the final decision and shall follow the expedited notice requirements provided in Metro Code Section 3.09.045(b).
- E. A brief report shall be issued at least seven days prior to the decision date pursuant to the requirements of Metro Code 3.09.045(c).
- F. The City Council shall approve or deny an expedited boundary change proposal based on the criteria listed in Section 81.050.
- G. An expedited process cannot be used if a necessary party gives written notice to contest the decision pursuant to Metro Code 3.09.045(b).

**81.070 APPEALS**

The City Council decision may be appealed by a necessary party to the Metro Boundary Appeals Commission pursuant to the provisions of Metro Code Section 3.09.070. An appeal by any other person will be processed according to State law.

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## **LAND DIVISION**

### **85.000 GENERAL PROVISIONS**

#### **85.010 PURPOSE**

- A. The purpose of the land division provisions of this Code is to implement the Comprehensive Plan; to provide rules and standards governing the approval of plats of subdivisions (four lots or more) and partitions (three lots or fewer); to help direct the development pattern; to lessen congestion in the streets; to increase street safety; to efficiently provide water, sewage, and storm drainage service; and to conserve energy resources.
- B. The purpose is further defined as follows:
1. To improve our sense of neighborhood and community and increase opportunities for socialization.
  2. To comply with the State's Transportation Planning Rule (TPR) which seeks to encourage alternate forms of transportation and reduce reliance upon the private automobile and vehicle miles traveled by increasing accessibility within and between subdivisions and neighborhoods. This may be accomplished by designing an easily understood, interconnected pattern of streets, bicycle and foot paths, and accommodation of transit facilities. Cul-de-sacs are to be discouraged unless site conditions dictate otherwise.
  3. To reduce pedestrian/vehicle conflicts and create a safe and attractive environment for pedestrians and bicyclists.
  4. To protect natural resource areas such as drainageways, Willamette and Tualatin River greenways, creeks, habitat areas, and wooded areas by dedication of those lands to the City, by protective easement, or by the sensitive layout of streets and graded areas so as to minimize their disturbance.

5. To protect the natural features and topography by minimizing grading and site disturbance and by requiring proper erosion control techniques.
6. To arrange the lots and streets so as to minimize nuisance conditions such as glare, noise, and vibration.
7. To maximize passive solar heating benefits by orienting the streets on an east-to-west axis which increases exposure to the sun.
8. To arrange for the efficient layout of utilities and infrastructure as well as their extension to adjacent parcels in a manner consistent with either adopted utility plans or sound engineering practices.
9. To arrange lots and roads to create reasonably buildable lots and acceptable driveway grades.
10. To encourage the arrangement of increased densities and smaller lots in proximity to needed services and schools as well as transportation corridors so as to reduce vehicle miles traveled and to encourage alternate modes of travel.
11. To encourage design experimentation and creativity.
12. To arrange for the mitigation of impacts generated by new development. These impacts include increased automobile, foot, and bicycle traffic. These impacts are to be mitigated at the developer's cost, by the provision of streets, sidewalks, bicycle and foot paths, and traffic control devices within, contiguous to, and nearby the development site. Similarly, increased demand on local infrastructure such as water lines, sanitary sewer lines, and storm drainage and detention facilities, should be offset by improving existing facilities or providing new ones. Protection of natural resource areas (wetlands, drainageways, greenways, etc.) from impacts associated with increased development shall be provided by dedication or easement as appropriate.

**85.020 SCOPE - CONFORMITY REQUIRED**

- A. This division shall apply to all subdivisions and partitions within the city limits of West Linn.
- B. No person shall subdivide or create a partition except in conformity with the provisions of this Code and ORS Chapter 92. ORS Chapter 92 states that all partitions and subdivisions of land require a final plat to be prepared by a registered professional land surveyor; all corners must be monumented, the partition or subdivision plat must be approved by the City and County surveyor, as appropriate, and recorded with the County recorder.
- C. No building permit or certificate of occupancy shall be issued for any parcel or lot which was created by subdivision or partition if it is not approved and in conformity with the provisions of this Code.
- D. No excavation of land or construction of any public or private improvement shall take place or be commenced except in conformity with the provisions of this Code.

**85.030 NEGOTIATION OF SALE OF LOTS PROHIBITED UNTIL APPROVAL IS GRANTED**

- A. No person shall negotiate to sell any lot in a subdivision until a tentative plan has been approved; but,
- B. A person may negotiate to sell any parcel in a partition for which approval of a tentative plan is required, but shall not sell a lot until the tentative plan has been approved.
- C. No building permits will be issued for tentatively approved lots. The final plat must be recorded before permits will be issued.

**85.040 SALE OF LOTS PROHIBITED UNTIL SUBDIVISION PLAT IS RECORDED**

- A. No person shall sell any lot in any subdivision until the plat has been acknowledged under Chapter 89, Subdivision and Partition Plats, and recorded with the recording officer of the County.

- B. No person shall sell any lot in any subdivision by reference to, or exhibition, or other use of a plat of such subdivision before the plat for such subdivision has been so recorded.

**85.050 APPROVAL REQUIRED BEFORE CREATING STREET OR ROAD TO PARTITION LAND**

- A. No person shall create a street or road for the purpose of partitioning an area or tract of land without approval by the approval authority under the provisions of Section 99.060(A) and (B).
- B. No instrument dedicating land to public use shall be accepted for recording unless such instrument bears the approval of the Planning Director or City Engineer, as applicable, under the provisions of Section 99.060(A) and (B), Procedures for Decision-Making.

(ORD. 1382)

**85.060 INCOMPLETE APPLICATIONS - THE DECISION-MAKING PERIOD**

- A. The Director shall not accept incomplete applications; however, if an application for approval of a tentative plan for a subdivision or partition is incomplete, the Planning Director shall notify the applicant of the fact within 30 days of the receipt of the application and allow the applicant to provide the additional required information.
- B. The approval authority shall take final action on an application for approval of a tentative plan for a subdivision or partition within 120 days after the application is found to be complete. (ORD. 1382)
- C. If action is not taken within the 120-day period, the applicant may apply to the circuit court for a writ of mandamus to compel the issuance of approval.

**85.070 ADMINISTRATION AND APPROVAL PROCESS**

- A. The application shall be filed by the record owner(s) of the property or by an authorized agent who has a letter of authorization from the property owners of record. The burden of proof will be upon the applicant to demonstrate the validity of the ownership, if challenged.

- B. Action on the application for a tentative plan shall be as provided by Chapter 99.
1. The Planning Director shall approve, deny, or approve with conditions, an application for a partition subject to the provisions of Sections 99.060(A), 99.110, and 85.200 of this Code. The Director's decision may be appealed to the City Council as provided by Section 99.240(A).
  2. The Planning Commission shall approve, deny, or approve with conditions, an application for a tentative plan for a subdivision subject to the provisions of Sections 99.060(B), 99.110, and 85.200 of this Code. A petition for review of the Planning Commission's decision may be filed as provided by Section 99.240(C).
  3. Action on the final plat shall be ministerial and taken by the Planning Director and City Engineer, and the Planning Director and City Engineer shall approve a final subdivision or partition plat upon the finding that the approval criteria set forth in Section 89.050 have been satisfied. The Planning Director's and City Engineer's decision may be appealed to the Planning Commission by the applicant, and the Planning Commission shall make its decision based on testimony from the applicant and the Director.

(ORD. 1474)

**85.080 SUBSTANTIAL DEVIATION FROM APPROVED PLAN PROHIBITED**

- A. Approval of the tentative plan shall require that the final plat be in substantial conformance. Only such changes in the plat or map as are necessary for compliance with the terms of its approval, changes appropriate to meet accepted engineering practices due to grades or site conditions, or changes to satisfy legislative requirements are appropriate; however,

- B. Approval of the tentative plan for the proposed subdivision or the partition shall not constitute final acceptance of the plat of the proposed subdivision or partition for recording.

**85.085 SUBDIVISION/PARTITION AMENDMENT TRIGGER**

Amendments to subdivision/partitions shall be required when 10 percent or more of the housing type changes (e.g., from single-family units to multi-family units) from the tentatively approved plan, or when there is more than a 10 percent change in the number of units, or when the layout of streets and lots significantly changes. (ORD. 1408)

**85.090 EXPIRATION OF APPROVAL - CONTINUATION**

If the final plat has not been submitted to the Planning Director within three years from the date of approval of the tentative plan, the approval expires.

(ORD. 1408)

**85.100 NON-COMPLIANCE - BOND**

- A. Non-compliance with an approved final plat shall be a violation of this Code.
- B. The development and associated conditions of approval shall be completed in accordance with the approved final plat before any occupancy permits will be issued except that when the City Engineer or Planning Director determines that immediate execution of any feature of an approved final plat is impractical due to climatic conditions, unavailability of materials, or other temporary condition, the Planning Director or City Engineer shall, as a precondition of the issuance of a required permit, require a cashier's check, cash, or other surety (generally 125 percent of an engineer's estimated cost of improvements), to secure execution of the feature at a time certain not to exceed one year.

**85.110 STAGED DEVELOPMENT**

The applicant may elect to develop the site in stages. Staged development shall be subject to the provisions of Section 99.125. However, notwithstanding the

provisions of Section 99.125, in no case shall the time period for platting all stages be greater than five years without re-filing the application.

**85.120 PARTIAL DEVELOPMENT**

Where the tentative subdivision or partition plan is limited to only part of the potential development site, the approval authority may require that an applicant submit a tentative layout for the streets for the unsubdivided portion.

**85.130 LAND DIVISION APPLICATION IN CONJUNCTION WITH OTHER LAND USE APPLICATIONS**

As provided by Section 99.070, a land division application filed under this Code may be heard concurrently with another application, upon applicant's request.

**85.140 PRE-APPLICATION CONFERENCE REQUIRED**

- A. An applicant shall participate in a pre-application conference with staff prior to the submission of a complete tentative plan.
- B. The Planning staff shall explain the applicable plan policies, ordinance provisions, opportunities, and constraints which may be applicable to the site and type of proposed land division.
- C. The City Engineering staff shall explain the public improvement requirements which may be applicable to the site and type of proposed land division, including potential for the applicant to apply for a waiver of street improvements. (ORD. 1544)

**85.150 THE APPLICATION - THE TENTATIVE PLAN**

- A. The applicant shall submit a completed application which shall include:
  - 1. The completed application form(s).
  - 2. Copies of the tentative plan and supplemental drawings shall include three copies at the original scale plus three copies reduced in paper size not greater than 11 X 17 inches. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department. (ORD. 1442)

3. A narrative explaining all aspects of land division per Section 85.200. (ORD. 1408)
4. A pre-requisite to the filing of an application for development proposals that include greater than 10 multi-family units or commercial/industrial buildings greater than 1500 square feet in size, a 4-lot or more planned unit development, a 10-lot or greater subdivision, or a zone change that requires a Comprehensive Plan amendment, is a meeting with the respective City recognized neighborhood association, per CDC Section 99.038, at which time the applicant will present their proposal and receive comments.  
(ORD. 1401)

B. The applicant shall pay the requisite fee.

**85.160**

**SUBMITTAL REQUIREMENTS FOR THE TENTATIVE PLAN**

- A. A city-wide map shall identify the site. A vicinity map covering 1/4-mile radius from the development site shall be provided in the application showing existing subdivisions, streets, and unsubdivided land ownerships adjacent to the proposed subdivision and showing how proposed streets and utilities may be extended to connect to existing streets and utilities.
- B. The tentative subdivision plan shall be prepared by a registered civil engineer and/or a licensed land surveyor. A stamp and signature of the engineer or surveyor shall be included on the tentative subdivision plan. A tentative minor partition plan (3 lots or less) is only required to be drawn to scale and does not have to be prepared by an engineer or surveyor.
- C. The tentative plan of a subdivision or partition shall be drawn at a scale not smaller than one inch equals 100 feet, or for areas over 100 acres, one inch equals 200 feet.
- D. The following general information shall be shown on the tentative plan of subdivision or partition:

1. Proposed name of the subdivision and streets; these names shall not duplicate nor resemble the name of any other subdivision or street in the City and shall be determined by the City Manager or designee. Street names should be easily spelled, pronounced, and of limited length. All new street names must, to the greatest extent possible, respect and be representative of the surrounding geography and existing street names. Street names should consider any prominent historical City figures or neighborhood themes that exist. Subdivision street names may not reference names of the builder or developer. (ORD. 1565)
  2. Date, north arrow, scale of drawing, and graphic bar scale.
  3. Appropriate identification clearly stating the drawing as a tentative plan.
  4. Location of the proposed division of land, with a tie to the City coordinate system, where established, and a description sufficient to define its location and boundaries, and a legal description of the tract boundaries.
  5. Names and addresses of the owner, developer, and engineer or surveyor.
- E. The following existing conditions shall be shown on the tentative plan of a subdivision or partition:
1. The location, widths, and names of all existing or platted streets and right-of-ways within or adjacent to the tract (within 50 feet), together with easements and other important features such as section lines, donation land claim corners, section corners, City boundary lines, and monuments.
  2. Contour lines related to the U.S. Geological Survey datum or some other established benchmark, or other datum approved by the Planning Director and having the following minimum intervals:

- a. Two-foot contour intervals for ground slopes less than 20 percent.
  - b. Five-foot contour intervals for ground slopes exceeding 20 percent.
3. The location of any control points that are the basis for the applicant's mapping.
  4. The location, by survey, and direction of all watercourses and areas subject to periodic inundation or storm drainageway overflow or flooding, including boundaries of flood hazard areas as established by the U.S. Corps of Engineers or the City zoning ordinance.
  5. Natural features such as rock outcroppings, wetlands tied by survey, wooded areas, heritage trees, and isolated trees (six-inch diameter at five feet above grade) identified by size, type, and location. All significant trees and tree clusters identified by the City Arborist using the criteria of CDC Section 55.100(B)(2) and all heritage trees, shall be delineated. Trees on non-Type I and II lands shall have their "dripline plus 10 feet" protected area calculated per CDC Section 55.100(B)(2) and expressed in square feet, and also as a percentage of total non-Type I and II area.

(ORD. 1403)

6. Existing uses of the property, including location of all existing structures. Label all structures to remain on the property after platting.
7. Identify the size and location of existing sewers, water mains, culverts, drain pipes, gas, electric, and other utility lines within the site, and in the adjoining streets and property.
8. Zoning on and adjacent to the tract.
9. Existing uses to remain on the adjoining property and their scaled location.

10. The location of any existing bicycle or pedestrian ways.
  11. The location of adjacent transit stops.
- F. The following proposed improvements shall be shown on the tentative plan or supplemental drawings:
1. The street - street location, proposed name, right-of-way width, and approximate radius of curves of each proposed street and street grades. Proposed street names shall comply with the street naming method explained in Section 85.200(A)(12).
  2. The type, method, and location of any erosion prevention and sediment control measures and/or facilities in accordance with the most current version of Clackamas County's *Erosion/Sedimentation Control Plans Technical Guidance Handbook*, which are necessary to prevent and control visible or measurable erosion as determined by the following criteria:
    - a. Deposition of soil, sand, dirt, dust, mud, rock, gravel, refuse, or any other organic or inorganic material exceeding one cubic foot in volume in a public right-of-way or public property, or into the City surface water management system either by direct deposit, dropping, discharge, or as a result of erosion; or,
    - b. Flow of water over bare soils, turbid or sediment laden flows, or evidence of on-site erosion such as rivulets or bare soil slopes, where the flow of water is not filtered or captured on the development site; or,
    - c. Earth slides, mud flows, land slumping, slope failure, or other earth movement that is likely to leave the property of origin.

Additional on-site measures may later be required if original measures prove to be inadequate in meeting these attainment standards. For the purposes of this Code, "one cubic foot in

volume" is defined to include the volume of material, wet or dry, at the time of deposition and includes any water of a discolored or turbid nature. (ORD. 1382)

3. Any proposed infrasture improvements that address those identified in the City Transportation System Plan. (ORD. 1544)
4. Any proposed bicycle or pedestrian paths. The location of proposed transit stops.
5. Any easement(s) - location, width, and purpose of the easement(s).
6. The lot configuration including location and approximate dimensions and lot area of each parcel, and in the case of a subdivision, the proposed lot and block number.
7. A street tree planting plan and schedule approved by the Parks Department.
8. Any land area to be dedicated to the City or put in common ownership.
9. Phase boundaries shall be shown. (ORD. 1382)

**85.170 SUPPLEMENTAL SUBMITTAL REQUIREMENTS FOR A TENTATIVE SUBDIVISION OR PARTITION PLAN**

The following information shall be submitted to supplement the tentative subdivision plan:

**A. General.**

1. Narrative stating how the plan meets each of the applicable approval criteria and each subsection below.
2. Statement or affidavit of ownership of the tract (County Assessor's map and tax lot number).
3. A legal description of the tract.
4. If the project is intended to be phased, then such a proposal shall be submitted at this time with drawing and explanation as to when each phase will occur and which lots will be in each phase.
5. Where the land to be subdivided or partitioned contains only a part

of the contiguous land owned by the developer, the Commission or Planning Director, as applicable, shall require a master plan of the remaining portion illustrating how the remainder of the property may suitably be subdivided.

6. Where the proposed subdivision site includes hillsides or where erosion hazard potential exists, including Type I and II lands as defined in Section 24.060(C), and any lands identified as a hazard site in the West Linn Comprehensive Inventory Plan Report, the standards and requirements of Chapter 24, Planned Unit Development, as well as the requirements for erosion control as described in Section 85.170(C), shall be addressed in a narrative.

(ORD. 1425)

7. Table and calculations showing the allowable number of lots under the zone and how many lots are proposed.
8. Map and table showing square footage of site comprising slopes by various classifications as identified in Section 55.110(B)(3).

(ORD. 1401)

**B. Transportation.**

1. Centerline profiles with extensions shall be provided beyond the limits of the proposed subdivision to the point where grades meet, showing the finished grade of streets and the nature and extent of street construction.
2. Traffic Impact Analysis (TIA).
  - A. Purpose. The purpose of this section of the code is to implement Section 660-012-0045 (2) (e) of the State Transportation Planning Rule that requires the City to adopt a process to apply conditions to development proposals in order to minimize adverse impacts to and protect transportation facilities. This section establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Analysis must be submitted

with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Study; and who is qualified to prepare the Study.

- B. Typical Average Daily Trips. The latest edition of the Trip Generation manual, published by the Institute of Transportation Engineers (ITE) shall be used as the standards by which to gauge average daily vehicle trips.
- C. When Required. A Traffic Impact Analysis may be required to be submitted to the City with a land use application, when the following conditions apply:
  - a. The development application involves one or more of the following actions:
    - (1) A change in zoning or a plan amendment designation; or
    - (2) Any proposed development or land use action that ODOT states may have operational or safety concerns along a state highway; and
    - (3) The development shall cause one or more of the following effects, which can be determined by field counts, site observation, traffic impact analysis or study, field measurements, crash history, Institute of Transportation Engineers Trip Generation manual; and information and studies provided by the local reviewing jurisdiction and/or ODOT:
      - (a.) An increase in site traffic volume generation by 250 Average Daily Trips (ADT) or more (or as required by the City Engineer); or
      - (b.) An increase in use of adjacent streets by vehicles exceeding

the 20,000 pound gross vehicle weights by 10 vehicles or more per day; or

- (c.) The location of the access driveway does not meet minimum intersection sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard; or
- (d.) The location of the access driveway does not meet the access spacing standard of the roadway on which the driveway is located; or
- (e.) A change in internal traffic patterns that may cause safety problems, such as back-up onto the highway or traffic crashes in the approach area.

D. Traffic Impact Analysis Requirements.

1. Preparation. A Traffic Impact Analysis shall be prepared by a professional engineer in accordance with OAR 734-051-180. The City shall commission the traffic analysis and it will be paid for by the applicant,
2. Transportation Planning Rule Compliance. See Section 105.050 Transportation Planning Rule Compliance.
3. Pre-application Conference. The applicant will meet with West Linn Public Works prior to submitting an application that requires a Traffic Impact Application. This meeting will determine the required elements of the TIA and the level of analysis expected.

E. Approval Criteria.

1. Criteria. When a Traffic Impact Analysis is required, approval of the development proposal requires satisfaction of the following criteria:

- (a) The Traffic Impact Analysis was prepared by a professional traffic engineer in accordance with OAR 734-051-180; and
- (b) If the proposed development shall cause one or more of the effects in Section 55.125(A)(3), above, or other traffic hazard or negative impact to a transportation facility, the Traffic Impact Analysis includes mitigation measures that meet the City's Level-of-Service and satisfactory to the City Engineer, and ODOT when applicable; and
- (c) The proposed site design and traffic and circulation design and facilities, for all transportation modes, including any mitigation measures, are designed to:
  - (1.) Have the least negative impact on all applicable transportation facilities; and
  - (2.) Accommodate and encourage non-motor vehicular modes of transportation to the extent practicable; and
  - (3.) Make the most efficient use of land and public facilities as practicable; and
  - (4.) Provide the most direct, safe and convenient routes practicable between on-site destinations, and between on-site and off-site destinations; and
  - (5.) Otherwise comply with applicable requirements of the City of West Linn Community Development Code.

- F. Conditions of Approval. The City may deny, approve, or approve the proposal with appropriate conditions.
1. Dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways shall be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.
  2. Improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways, paths, or streets that serve the proposed use where the existing transportation system may be burdened by the proposed use may be required.  
(ORD. 1584)

C. **Grading.**

1. If areas are to be graded, a plan showing the location of cuts, fill, and retaining wall, and information on the character of soil shall be provided. The grading plan shall show proposed and existing contours at intervals per Section 85.160(E)(2).
2. The grading plan shall demonstrate that the proposed grading to accommodate roadway standards and create appropriate building sites, is the minimum amount necessary. (ORD. 1382)

D. **Water.**

1. A plan for domestic potable water supply lines and related water service facilities, such as reservoirs, etc., shall be prepared by a licensed engineer consistent with the adopted Comprehensive Water System Plan and most recently adopted updates and amendments.
2. Location and sizing of the water lines within the development and off-site extensions. Show on-site water line extensions in street stubouts to the edge of the site, or as needed to complete a loop in

the system.

3. Adequate looping system of water lines to enhance water quality.
4. For all non single-family developments, calculate fire flow demand of the site and demonstrate to the Fire Chief. Demonstrate to the City Engineer how the system can meet the demand.

**E. Sewer.**

1. A plan prepared by a licensed engineer shall show how the proposal is consistent with the Sanitary Sewer Master Plan and subsequent updates and amendments. Agreement with that plan must demonstrate how the sanitary sewer proposal will be accomplished and how it is efficient. The sewer system must be in the correct zone.
2. Sanitary sewer information will include plan view of the sanitary sewer lines, including manhole locations and depths. Show how each lot would be sewerred.
3. Sanitary sewer lines shall be located in the public right-of-way, particularly the street, unless the applicant can demonstrate why the alternative location is necessary and meets accepted engineering standards.
4. Sanitary sewer line should be at a depth that can facilitate connection with down system properties in an efficient manner.
5. The sanitary sewer line should be designed to minimize the amount of lineal feet in the system.
6. The sanitary sewer line shall minimize disturbance of natural areas and, in those cases where that is unavoidable, disturbance shall be mitigated pursuant to the appropriate chapters (e.g., Chapter 30, Wetland and Natural Drainageway).
7. Sanitary sewer shall be extended or stubbed out to the next developable subdivision or a point in the street that allows for reasonable connection with adjacent or nearby properties.

8. The sanitary sewer system shall be built pursuant to Department of Environmental Quality (DEQ), City, and Tri-City Service District sewer standards. This report should be prepared by a licensed engineer, and the applicant must be able to demonstrate the ability to satisfy these submittal requirements or standards at the pre-construction phase.

**F. Storm.**

1. A proposal shall be submitted for storm drainage and flood control including profiles of proposed drainageways with reference to the most recently adopted Storm Drainage Master Plan.
2. Storm treatment and detention facilities shall be sized to accommodate a 25-year storm incident. A registered civil engineer shall prepare a plan and statement which shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity of runoff downstream or constriction created upstream impacts. The plan and statement shall identify all on- or off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine the off-site impacts from a 25-year storm. (ORD. 1442)
3. Plans shall demonstrate how storm drainage will be collected from all impervious surfaces including roof drains. Storm drainage connections shall be provided to each dwelling unit/lot. The location, size, and type of material selected for the system shall correlate with the 10-year storm incident and agree with the factual information provided in response to F(2) above.
4. The detention facilities shall be designed by a licensed engineer to meet City standards. The detention facilities should include a vegetation plan for the facility and environs, if applicable.

**85.180****REDIVISION PLAN REQUIREMENT**

A re-division plan shall be required for a partition or subdivision, where the property could be developed at a higher density, under existing/proposed zoning, if all services were available and adequate to serve the use.

- A. The re-division plan is a sketch plan. A land survey and an engineering drawing is not required except where there are unique soil, topographic, or geologic conditions. Under the provisions of Section 99.035, Administrative Procedures, the Planning Director may require additional information.
- B. The applicant shall submit a topographic map based on available information and a subdivision layout in accordance with standards set forth in this chapter and zoning district in which the property is located.
- C. A building permit issued shall be for a specified future lot and the building shall meet the setback provisions of the zoning district in which the property is located.
- D. The redivision plan is considered a guide. Its purpose is to assure the efficient use of land and orderly growth. At such time as the property owner applies to redivide the land, a different proposal may be submitted for approval provided it meets all of the requirements. The redivision plan is not binding on the applicant or the City at the time a formal application is submitted under this chapter.
- E. The Planning Director shall approve the redivision plan in the manner set forth in Section 99.060(A)(2), except that no notice shall be given. The applicant may appeal the Planning Director's decision as provided by Section 99.240(A).
- F. The Planning Director's decision shall be based on the following findings:
  - 1. The redivision plan complies with the applicable requirements of this chapter and zoning district in which the property is located.
  - 2. There are adequate water and sewage systems available for the proposed use.

**85.190 ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS**

- A. The Planning Director may require additional information as part of the application subject to the provisions of Section 99.035(A).
- B. The applicant may request a waiver of any requirements for the application subject to the provisions of Section 99.035(B) and (C).

**85.200 APPROVAL CRITERIA**

No tentative subdivision or partition plan shall be approved unless adequate public facilities will be available to provide service to the partition or subdivision area prior to final plat approval and the Planning Commission or Planning Director, as applicable, find that the following standards have been satisfied, or can be satisfied by condition of approval. (ORD 1544)

**A. Streets**

- 1. General. The location, width and grade of streets shall be considered in their relation to existing and planned streets, to the generalized or reasonable layout of streets on adjacent undeveloped parcels, to topographical conditions, to public convenience and safety, to accommodate various types of transportation (automobile, bus, pedestrian, bicycle), and to the proposed use of land to be served by the streets. The functional class of a street aids in defining the primary function and associated design standards for the facility. The hierarchy of the facilities within the network in regards to the type of traffic served (through or local trips), balance of function (providing access and/or capacity), and the level of use (generally measured in vehicles per day) are generally dictated by the functional class. The street system shall assure an adequate traffic or circulation

system with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried. Streets should provide for the continuation, or the appropriate projection, of existing principal streets in surrounding areas and should not impede or adversely affect development of adjoining lands or access thereto.

To accomplish this, the emphasis should be upon a connected continuous pattern of local, collector, and arterial streets rather than discontinuous curvilinear streets and cul-de-sacs. Deviation from this pattern of connected streets should only be permitted in cases of extreme topographical challenges including excessive slopes (35 percent plus), hazard areas, steep drainageways, wetlands, etc. In such cases, deviations may be allowed but the connected continuous pattern must be reestablished once the topographic challenge is passed. Streets should be oriented with consideration of the sun, as site conditions allow, so that over 50 percent of the front building lines of homes are oriented within 30 degrees of an east-west axis. (ORD. 1382; ORD. 1584)

Internal streets are the responsibility of the developer. All streets bordering the development site are to be developed by the developer with, typically, half-street improvements or to City standards prescribed by the City Engineer. Additional travel lanes may be required to be consistent with adjacent road widths or to be consistent with the adopted Transportation System Plan and any adopted updated plans. (ORD. 1544)

An applicant may submit a written request for a waiver of abutting street improvements if the Transportation System Plan prohibits the street improvement for which the waiver is requested. Those areas with numerous (particularly contiguous) under-developed or undeveloped tracts will be required to install street improvements.

When an applicant requests a waiver of street improvements and

the waiver is granted, the applicant shall propose a fee amount that will be reviewed by the City manager or the Manager's designee. The City Manager or the Manager's designee will revise the proposed fee as necessary and establish the amount to be paid on a case by case basis. The applicant shall pay an in-lieu fee for improvements to the nearest street identified by the City Manager or Manager's designee as necessary and appropriate. The amount of the in-lieu fee shall be roughly proportional to the impact of the development on the street system as determined in the CDC 85.200 (A) (22) below. (ORD. 1442) (ORD.1544)

Streets shall also be laid out to avoid and protect clusters and significant trees, but not to the extent that it would compromise connectivity requirements per CDC Section 85.200(A)(1), or bring the density below 70 percent of the maximum density for the developable net area. The developable net area is calculated by taking the total site acreage and deducting Type I and II lands; then up to 20 percent of the remaining land may be excluded as necessary for the purpose of protecting significant tree clusters or stands as defined in CDC Section 55.100(B)(2). (ORD. 1408) (ORD.1544)

2. Right-of-way and Roadway Widths. In order to accommodate larger tree lined boulevards and sidewalks, particularly in residential areas, the standard right-of-way widths for the different street classifications shall be within the range listed below. But, instead of filling in the right-of-way with pavement, they shall accommodate the amenities (e.g., boulevards, street trees, sidewalks). The exact width of the right-of-way shall be determined by the City Engineer or the approval authority. The following ranges will apply:

<u>Street Classification</u>	<u>Right-of-Way</u>
Highway 43	60-80
Major arterial	60-80
Minor arterial	60-80
Major collector	60-80
Collector	60-80
Local street	40-60
Cul-de-sac	40-60
Radii of cul-de-sac	48-52
Alley	16

Additional right-of-ways for slopes may be required. Sidewalks shall not be located outside of the right-of-way unless to accommodate significant natural features or trees.

3. Street Widths. Street widths shall depend upon which classification of street is proposed. The classifications and required cross sections are established in Chapter 8 of the adopted TSP. Streets are classified as follows. (ORD 1584)

**Freeways** are state or interstate facilities that provide regional travel connections. These routes have the highest capacity and the most restrictive access requirements. Two local freeway interchanges at 10th Street and at Highway 43 serve the entire city of West Linn. Interchanges are grade-separated facilities with arterial or principal arterial streets. No intermediate vehicular or pedestrian access is allowed.

**Principal Arterials** are typically state highways that provide the high level roadway capacity to local land uses. These routes connect over the longest distance (sometimes miles long) and are less frequent than other arterial or collectors. These highways

generally span several jurisdictions and often have statewide importance (as defined in the ODOT State Highway Classification).

These facilities should provide for a high level of transit service and include transit priority measures to expedite bus travel.

**Arterial Streets** serve to interconnect the City. These streets link major commercial, residential, industrial and institutional areas.

Arterial streets are typically spaced about one mile apart to assure accessibility and reduce the incidence of traffic using collectors or local streets for through traffic in lieu of a well placed arterial street. Access control is the key feature of an arterial route.

Arterials are typically multiple miles in length.

**Collector streets** provide both access and circulation within and between residential and commercial/industrial areas. Collectors differ from arterials in that they provide more of a citywide circulation function, do not require as extensive control of access and that they penetrate residential neighborhoods, distributing trips from the neighborhood and local street system. Collectors are typically greater than 0.5 to 1.0 miles in length.

**Neighborhood Routes** are usually long relative to local streets and provide connectivity to collectors or arterials. Since neighborhood routes have greater connectivity, they generally have more traffic than local streets and are used by residents in the area to access the neighborhood, but do not serve citywide/large area circulation.

They are typically about a quarter to a half-mile in total length.

Traffic from cul-de-sacs and other local streets may drain onto neighborhood routes to gain access to collectors or arterials.

Because traffic needs are greater than a local street, certain measures should be considered to retain the neighborhood

character and livability of these streets. Neighborhood traffic management measures are often appropriate (including devices such as speed humps, traffic circles and other devices - refer to later section in this chapter). However, it should **not** be construed that neighborhood routes automatically get speed humps or any other measures. While these streets have special needs, neighborhood traffic management is only one means of retaining neighborhood character and vitality.

**Local Streets** have the sole function of providing access to immediate adjacent land. Service to “through traffic movement” on local streets is deliberately discouraged by design.

The following table identifies appropriate street width (curb to curb) in feet for various street classifications. The desirable width shall be required unless the applicant or his engineer can demonstrate that site conditions, topography, or site design require the reduced minimum width. (ORD. 1584)

### City of West Linn Roadway Cross-Section Standards

Street Element	Characteristic	Width/Options
Vehicle Lane Widths: (minimum widths)	Arterial Collector Neighborhood Local Turn Lane	11 feet 10 feet 10 feet 12 feet 10-14 feet
On-Street Parking	Arterials Collectors Neighborhood Local	Limited (in commercial areas) Some (unstriped) Some (8 feet) Some (unstriped)
Bicycle Lanes (minimum widths)	New Construction Reconstruction	5 to 6 feet 5 to 6 feet
Sidewalks (minimum width) <i>(See note below)</i>	Arterial Collector Neighborhood/Local	6 feet 6 feet 6 feet
Landscape Strips	Can be included in all streets	6 feet
Medians:	5-Lane 3-Lane 2-Lane	Optional Optional Consider if appropriate
Neighborhood Traffic Mgmt	Arterials Collectors Neighborhood Local	Not Recommended Under Special Conditions Should consider if appropriate Should consider if appropriate
Transit	Arterial/Collectors Neighborhood Route Local	Appropriate Only in special circumstances Not Recommended

NOTE: Commercial/OBC zone development on arterials requires a 12-foot wide sidewalk which includes three feet for street trees, hydrants, street furniture, etc. Commercial/OBC zone development on local streets requires an 8-foot wide sidewalk with no planter strip, but shall include cut-outs for street trees. In both commercial and residential areas where site constraints exist, sidewalks and planter strips may be reduced to the minimum necessary (e.g., 4 feet for sidewalks and no planter strip) to accommodate walking and significant natural features such as mature trees, steep embankment, grade problems, and existing structures, or to match existing

sidewalks or right-of-way limitations. These natural features are to be preserved to the greatest extent possible. Requests for this configuration shall require the endorsement of the City Engineer. City Engineer has the authority to require that street widths match adjacent street widths.

Sidewalk Location	Sidewalk Width
Arterial in GC/OBC zone	12 feet
Collector/Local in GC/OBC zone	8 feet
Storefront on arterial	12 feet
Storefront on collector/local	8 feet
Residential Development	6 feet (+6-foot planter strip)

(GC = General Commercial; OBC = Office Business Center) (ORD. 1401)



(ORD. 1377)

4. The decision-making body shall consider the City Engineer's recommendations on the desired right-of-way width, pavement width and street geometry of the various street types within the subdivision after

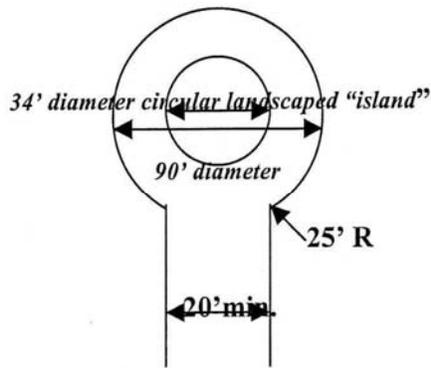
consideration by the City Engineer of the following criteria:

- a. The type of road as set forth in the Transportation Master Plan.
  - b. The anticipated traffic generation.
  - c. On-street parking requirements.
  - d. Sidewalk and bikeway requirements.
  - e. Requirements for placement of utilities.
  - f. Street lighting.
  - g. Drainage and slope impacts.
  - h. Street trees.
  - i. Planting and landscape areas.
  - j. Existing and future driveway grades.
  - k. Street geometry.
  - l. Street furniture needs, hydrants.
5. Additionally, when determining appropriate street width, the decision-making body shall consider the following criteria:
- a. When a local street is the only street serving a residential area and is expected to carry more than the normal local street traffic load, the designs with two travel and one parking lane are appropriate.
  - b. Streets intended to serve as signed but unstriped bike routes should have the travel lane widened by two feet.
  - c. Collectors should have two travel lanes and may accommodate some parking. Bike routes are appropriate.
  - d. Arterials should have two travel lanes. On-street parking is not allowed unless part of a Street Master Plan. Bike lanes are required as directed by the Parks Master Plan and Transportation Master Plan.
6. Reserve Strips. Reserve strips or street plugs controlling the access to streets are not permitted unless owned by the City.

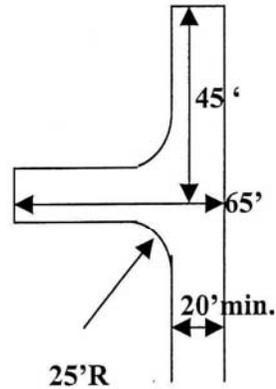
7. Alignment. All streets other than local streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuations of the centerlines thereof. The staggering of street alignments resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the centerlines of streets having approximately the same direction and otherwise shall not be less than 100 feet.
8. Future Extension of Streets. Where necessary to give access to, or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision and the resulting dead-end streets may be approved without turnarounds. (Temporary turnarounds built to Fire Department standards are required when the dead-end street is over 100 feet long.)
9. Intersection Angles. Streets shall be laid out to intersect angles as near to right angles as practical, except where topography requires lesser angles, but in no case less than 60 degrees unless a special intersection design is approved. Intersections which are not at right angles shall have minimum corner radii of 15 feet along right-of-way lines which form acute angles. Right-of-way lines at intersections with arterial streets shall have minimum curb radii of not less than 35 feet. Other street intersections shall have curb radii of not less than 25 feet. All radii shall maintain a uniform width between the roadway and the right-of-way lines. The intersection of more than two streets at any one point will not be allowed unless no alternative design exists.
10. Additional Right-of-Way for Existing Streets. Wherever existing street right-of-ways adjacent to or within a tract are of inadequate widths based upon the standards of this chapter, additional right-of-way shall be provided at the time of subdivision or partition.
11. Cul-de-sacs. Cul-de-sacs are not allowed except as required by

topography, slope, site limitations, and lot shapes. Cul-de-sacs shall have maximum lengths of 400 feet and serve no more than 12 dwelling units, unless by variance per CDC Chapter 75. All cul-de-sacs shall terminate with a turnaround built to one of the

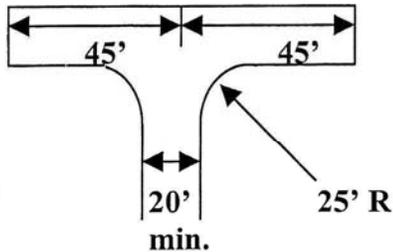
following specifications (measurements are for the traveled way and do not include planter strips or sidewalks.



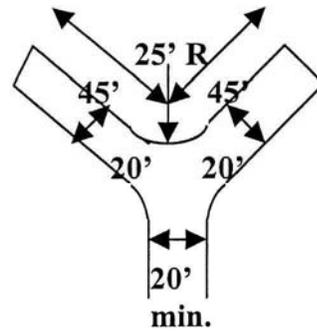
**Cul-de-Sac Turnaround**



**Hammer Head Turnaround**



**"T" Turnaround**

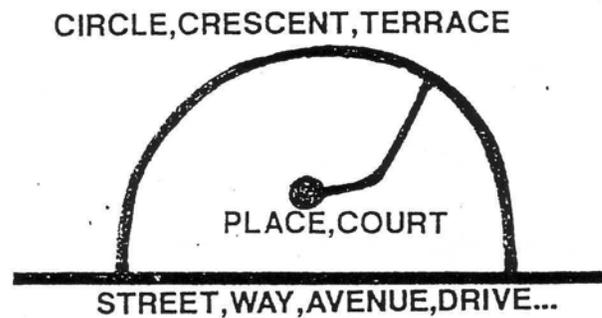


**"Y" Turnaround**

(ORD. 1463)

12. Street Names. No street names shall be used which will duplicate or be confused with the names of existing streets within the City. Street names that

involve difficult or unusual spellings are discouraged. Street names shall be subject to the approval of the Planning Commission or Planning Director, as applicable. Continuations of existing streets shall have the name of the existing street. Streets, drives, avenues, ways, boulevards, lanes, shall describe through streets. Place and court shall describe cul-de-sacs. Crescent, terrace, and circle shall describe loop or arcing roads.



13. Grades and Curves. Grades shall not exceed 8 percent on major or secondary arterials, 10 percent on collector streets, or 15 percent on any other street unless by variance. Willamette Drive/Highway 43 shall be designed to a minimum horizontal and vertical design speed of 45 mph, subject to Oregon Department of Transportation (ODOT) approval. Arterials shall be designed to a minimum horizontal and vertical design speed of 35 mph. Collectors shall be designed to a minimum horizontal and vertical design speed of 30 mph. All other streets shall be designed to have a minimum centerline radii of 50 feet. Super elevations (i.e., banking) shall not exceed 4 percent. The centerline profiles of all streets may be provided where terrain constraints (e.g., over 20 percent slopes) may result in considerable deviation from the originally proposed alignment.

14. Access to Local Streets. Intersection of a local residential street

with an arterial street may be prohibited by the decision-making authority if suitable alternatives exist for providing interconnection of proposed local residential streets with other local streets. Where a subdivision or partition abuts or contains an existing or proposed major arterial street, the decision-making authority may require marginal access streets, reverse frontage lots with suitable depth, visual barriers, noise barriers, berms, no access reservations along side and rear property lines, and/or other measures necessary for adequate protection of residential properties from incompatible land uses, and to ensure separation of through traffic and local traffic.

15. Alleys. Alleys shall be provided in commercial and industrial districts unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the decision-making authority. While alley intersections and sharp changes in alignment should be avoided, the corners of necessary alley intersections shall have radii of not less than 10 feet. Alleys may be provided in residential subdivisions or multi-family projects. The decision to locate alleys shall consider the relationship and impact of the alley to adjacent land uses. In determining whether it is appropriate to require alleys in a subdivision or partition, the following factors and design criteria should be considered:

- a. The alley shall be "self-contained" within the subdivision. The alley shall not abut undeveloped parcels which are not part of the project proposal. The alley will not stub out to abutting undeveloped parcels which are not part of the project proposal.
- b. The alley will be designed to allow unobstructed and easy surveillance by residents and police.

- c. The alley should be illuminated. Lighting should include non-omnidirectional pole mounted high or low pressure sodium lights every 100-200 feet.
  - d. The alley should be a semi-private space where strangers are tacitly discouraged.
  - e. Speed bumps may be installed in sufficient number to provide a safer environment for children at play and to discourage through or speeding traffic.
  - f. Alleys should be a minimum of 14 feet wide, paved with no curbs.
16. Sidewalks. Sidewalks shall be installed per Section 92.010(H), Sidewalks. The residential sidewalk width is six feet plus planter strip as specified below. Sidewalks in commercial zones shall be constructed per Section 85.200(A)(3)(e). See also Section 85.200(C). Sidewalk width may be reduced with City Engineer approval to the minimum amount (e.g., 4 feet wide) necessary to respond to site constraints such as grades, mature trees, rock outcroppings, etc., or to match existing sidewalks or right-of-way limitations. (ORD. 1408)
17. Planter Strip. The planter strip is between the curb and sidewalk providing space for a grassed or landscaped area and street trees. The planter strip shall be at least 6 feet wide to accommodate a fully matured tree without the boughs interfering with pedestrians on the sidewalk or vehicles along the curblines. Planter strip width may be reduced or eliminated, with City Engineer approval, when it cannot be corrected by site plan, to the minimum amount necessary to respond to site constraints such as grades, mature trees, rock outcroppings, etc., or in response to right-of-way limitations. (ORD. 1408)
18. Streets and roads shall be dedicated without any reservations or

restrictions.

19. All lots in a subdivision shall have frontage on a public street. Lots created by partition may have access to a public street via an access easement pursuant to the standards and limitations set forth for such accessways in Chapter 48. (ORD. 1442)
20. Gated Streets. Gated streets are prohibited in all residential areas on both public and private streets. A driveway to an individual home may be gated. (ORD. 1408)
21. Entryway Treatments and Street Isle Design. When the applicant desires to construct certain walls, planters, and other architectural entryway treatments within a subdivision, the following standards shall apply:
  - a. All entryway treatments except islands shall be located on private property and not in the public right-of-way.
  - b. Planter islands may be allowed provided there is no structure (i.e., brick, signs, etc.) above the curbline, except for landscaping. Landscaped islands shall be set back a minimum of 24 feet from the curbline of the street to which it is perpendicular.
  - c. All islands shall be in public ownership. The minimum isle width between the curb and center island curbs shall be 14 feet. Additional width may be required as determined by the City Engineer.
  - d. Brick or special material treatments are acceptable at intersections with the understanding that the City will not maintain these sections except with asphalt overlay, and that they must meet the Americans with Disabilities Act (ADA) standards. They shall be laid out to tie into existing sidewalks at intersections.
  - e. Maintenance for any common areas and entryway

treatments (including islands) shall be guaranteed through homeowners' association agreements, CC&Rs, etc.

f. Under Chapter 52, subdivision monument signs shall not exceed 32 square feet in area.

22. Based upon the determination of the City Manager or the Manager's designee, the applicant shall construct or cause to be constructed, or contribute a proportionate share of the costs, for all necessary off-site improvements identified by the transportation analysis commissioned to address CDC 85.170.B.2. that are required to mitigate impacts from the proposed subdivision. Proportionate share of the costs shall be determined by the City Manager or Manager's designee who shall assume that the proposed subdivision provides improvements in rough proportion to identified impacts of the subdivision. Off-site transportation improvements will include bicycle and pedestrian improvements as identified in the adopted City of West Linn TSP. (ORD. 1526) (ORD. 1544) (ORD. 1584)

**B. Blocks and Lots**

1. General. The length, width, and shape of blocks shall be designed with due regard for the provision of adequate building sites for the use contemplated; consideration of the need for traffic safety, convenience, access, circulation, and control; and recognition of limitations and opportunities of topography and solar access.
2. Sizes. The recommended block size is 400 feet in length to encourage greater connectivity within the subdivision. Blocks shall not exceed 800 feet in length between street lines, except for blocks adjacent to arterial streets or unless topographical conditions or the layout of adjacent streets justify a variation. Designs of proposed intersections shall demonstrate adequate sight

distances to the City Engineer's specifications. Block sizes and proposed accesses must be consistent with the adopted TSP.

(ORD. 1584)

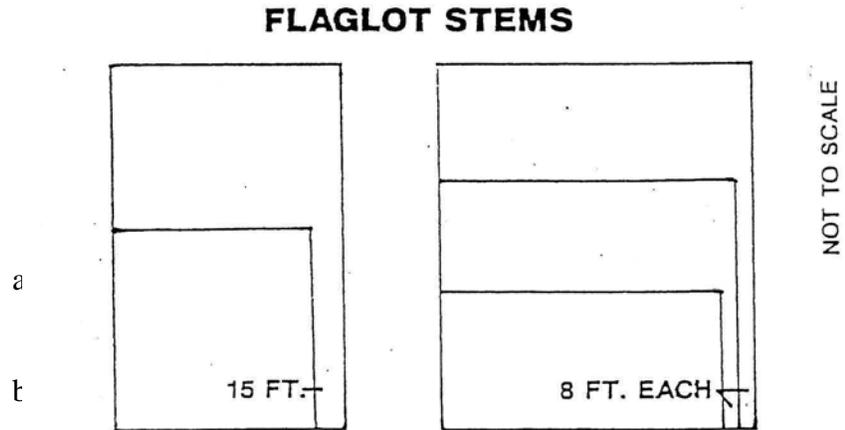
3. Lot Size and Shape. Lot size, width, shape, and orientation shall be appropriate for the location of the subdivision, for the type of use contemplated, for potential utilization of solar access, and for the protection of drainageways, trees, and other natural features. No lot shall be dimensioned to contain part of an existing or proposed street. All lots shall be buildable, and the buildable depth should not exceed two and one-half times the average width. Buildable describes lots that are free of constraints such as wetlands, drainageways, etc., that would make home construction impossible. Lot sizes shall not be less than the size required by the zoning code unless as allowed by Planned Unit Development (PUD). (ORD. 1401)

Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use proposed.

4. Access. Access to subdivisions, partitions, and lots shall conform to the provisions of Chapter 48, Access.
5. Through Lots and Parcels. Through lots have frontage on a street at the front and rear of the lot. They are also called double frontage lots. Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from arterial streets or adjacent non-residential activities, or to overcome specific disadvantages of topography and orientation. A planting screen or impact mitigation easement at least 10 feet wide, and across which there shall be no right of access, may be required along the line of building sites abutting

such a traffic artery or other incompatible use.

6. Lot and Parcel Side Lines. The lines of lots and parcels, as far as is practicable, should run at right angles to the street upon which they face, except that on curved streets they should be radial to the curve.
7. Flag Lots. Flag lots can be created where it can be shown that no other reasonable street access is possible to achieve the requested land division. A single flag lot shall have a minimum street frontage of 15 feet for its accessway. Where two to four flag lots share a common accessway, the minimum street frontage and accessway shall be 8 feet in width per lot. Common accessways shall have mutual maintenance agreements and reciprocal access and utility easements. The following dimensional requirements shall apply to flag lots:



the street from which the flag lot gains access. Alternately, the house and its front yard may be oriented in other directions so long as some measure of privacy is ensured, or it is part of a pattern of development, or it better fits the topography of the site.

- c. The lot size shall be calculated exclusive of the accessway; the access strip may not be counted towards the area

requirements.

- d. The lot depth requirement contained elsewhere in this Code shall be measured from the rear property line of the parcel which substantially separates the flag lot from the street from which the flag lot gains access.
- e. As per Section 48.030, the accessway shall have a minimum paved width of 12 feet.
- f. If the use of a flag lot stem to access a lot is infeasible because of a lack of adequate existing road frontage, or location of existing structures, the proposed lot(s) may be accessed from the public street by an access easement of a minimum 15 foot width across intervening property.

(ORD 1442)

- 8. Large Lots. In dividing tracts into large lots or parcels which, at some future time, are likely to be redivided, the approval authority may require that the blocks be of such size and shape, and be so divided into building sites, and contain such easements and site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller size. Alternately, in order to prevent further partition of oversized lots, restrictions may be imposed on the subdivision or partition plat.

### **C. Pedestrian and Bicycle Trails**

- 1. Trails or multi-use pathways shall be installed, consistent and compatible with federal ADA requirements and with the Oregon Transportation Planning Rule, between subdivisions, cul-de-sacs, and streets that would otherwise not be connected by streets due to excessive grades, significant tree(s), and other constraints natural or man-made. Trails shall also accommodate bicycle or pedestrian

traffic between neighborhoods and activity areas such as schools, libraries, parks, or commercial districts. Trails shall also be required where designated by the Parks Master Plan. (ORD. 1425)

2. The all-weather surface (asphalt, etc.) trail should be eight feet wide at minimum for bicycle use and six feet wide at minimum for pedestrian use. Trails within 10 feet of a wetland or natural drainageway shall not have an all-weather surface, but shall have a soft surface as approved by the Parks Director. These trails shall be contained within a corridor dedicated to the City that is wide enough to provide trail users with a sense of defensible space. Corridors that are too narrow, confined, or with vegetative cover may be threatening and discourage use. Consequently, the minimum corridor width shall be 20 feet. Sharp curves, twists, and blind corners on the trail are to be avoided as much as possible to enhance defensible space. Deviations from the corridor and trail width are permitted only where topographic and ownership constraints require it. (ORD. 1463)
3. Defensible space shall also be enhanced by the provision of a 3-4 foot high matte black chain link fence or acceptable alternative along the edge of the corridor. The fence shall help delineate the public and private spaces.
4. The bicycle or pedestrian trails that traverse multi-family and commercial sites should follow the same defensible space standards but do not need to be defined by a fence unless required by the decision-making authority.
5. Except for trails within 10 feet of a wetland or natural drainageway, soft surface or gravel trails may only be used in place of a paved, all-weather surface where it can be shown to the
6. Planning Director that the principal users of the path will be

recreational, non-destination oriented foot traffic, and that alternate paved routes are nearby and accessible. (ORD. 1463)

7. The trail grade shall not exceed 12% except in areas of unavoidable topography, where the trail may be up to a 15% grade for short sections no longer than 50 feet. In any location where topography requires steeper trail grades than permitted by this section, the trail shall incorporate a short stair section to traverse the area of steep grades. (ORD. 1442)

**D. Transit Facilities.**

1. The applicant shall consult with Tri-Met and the City Engineer to determine the appropriate location of transit stops, bus pullouts, future bus routes, etc. contiguous to, or within the development site. If transit service is planned to be provided within the next two years, then facilities such as pullouts shall be constructed per Tri-Met standards at the time of development. More elaborate facilities, like shelters, need only be built when service is existing or imminent. Additional right-of-ways may be required of developers to accommodate buses.
2. The applicant shall make all transit related improvements in the right-of-way or in easements abutting the development site as deemed appropriate by the City Engineer.
3. Transit stops shall be served by striped and signed pedestrian crossings of the street within 150 feet of the transit stop where feasible. Illumination of the transit stop and crossing is required to enhance defensible space and safety. ODOT approval may be required.
4. Transit stops should include a shelter structure bench plus eight feet of sidewalk to accommodate transit users, non-transit related pedestrian use, and wheelchair users. Tri-Met must approve the final configuration.



prohibited unless satisfactory evidence is additionally submitted by a registered geotechnical engineer which certifies that methods of rendering a known hazard site safe for construction are feasible for a given site. The City Engineer's field investigation shall include, but need not be limited to, the following elements:

- a. Occurrences of geotropism.
- b. Visible indicators of slump areas.
- c. Existence of known and verified hazards.
- d. Existence of unusually erosive soils.
- e. Occurrences of unseasonably saturated soils.

The City Engineer shall determine whether the proposed methods or designs are adequate to prevent landslide or slope failure. The City Engineer may impose conditions consistent with the purpose of these ordinances and with standard engineering practices including limits on type and intensity of land use, which have been determined necessary to assure landslide or slope failure does not occur.

6. All cuts and fills shall conform to the Uniform Building Code.
7. On land with slopes in excess of 12 percent, cuts and fills shall be regulated as follows:
  - a. Toes of cuts and fills shall be set back from the boundaries of separate private ownerships at least three feet, plus one-fifth of the vertical height of the cut or fill. Where an exception is required from that requirement, slope easements shall be provided.
  - b. Cuts shall not remove the toe of any slope where a severe landslide or erosion hazard exists (as described in Section 85.170.C.3.).
  - c. Any structural fill shall be designed by a registered engineer in a manner consistent with the intent of this Code

and standard engineering practices, and certified by that engineer that the fill was constructed as designed.

- d. Retaining walls shall be constructed pursuant to Section 2308(b) of the Oregon State Structural Specialty Code.
  - e. Roads shall be the minimum width necessary to provide safe vehicle access, minimize cut and fill, and provide positive drainage control.
8. Land over 50 percent slope shall be developed only where density transfer is not feasible. The development will provide that:
- a. At least 70 percent of the site will remain free of structures or impervious surfaces.
  - b. Emergency access can be provided.
  - c. Design and construction of the project will not cause erosion or land slippage.
  - d. Grading, stripping of vegetation, and changes in terrain are the minimum necessary to construct the development in accordance with Section 85.200(J). (ORD. 1382)

**F. Water**

- 1. A plan for domestic water supply lines or related water service facilities shall be prepared consistent with the adopted Comprehensive Water System Plan, plan update, March 1987, and subsequent superseding revisions or updates.
- 2. Adequate location and sizing of the water lines.
- 3. Adequate looping system of water lines to enhance water quality.
- 4. For all non single-family developments, there shall be a demonstration of adequate fire flow to serve the site.
- 5. A written statement, signed by the City Engineer, that water service can be made available to the site by the construction of on-site and off-site improvements and that such water service has sufficient volume and pressure to serve the proposed

development's domestic, commercial, industrial, and fire flows.

**G. Sewer**

1. A plan prepared by a licensed engineer shall show how the proposal is consistent with the Sanitary Sewer Master Plan (July 1989). Agreement with that plan must demonstrate how the sanitary sewer proposal will be accomplished and how it is gravity efficient. The sewer system must be in the correct basin and should allow for full gravity service.
2. Sanitary sewer information will include plan view of the sanitary sewer lines, including manhole locations and depth or invert elevations.
3. Sanitary sewer lines shall be located in the public right-of-way, particularly the street, unless the applicant can demonstrate why the alternative location is necessary and meets accepted engineering standards.
4. Sanitary sewer line should be at a depth that can facilitate connection with down system properties in an efficient manner.
5. The sanitary sewer line should be designed to minimize the amount of lineal feet in the system.
6. The sanitary sewer line shall avoid disturbance of wetland and drainageways. In those cases where that is unavoidable, disturbance shall be mitigated pursuant to Chapter 30, Wetland, and Chapter 32, Natural Drainageway, all trees replaced, and proper permits obtained. Dual sewer lines may be required so the drainageway is not disturbed.
7. Sanitary sewer shall be extended or stubbed out to the next developable subdivision or a point in the street that allows for reasonable connection with adjacent or nearby properties.
8. The sanitary sewer system shall be built pursuant to DEQ, City, and Tri-City Service District sewer standards. The design of the

sewer system should be prepared by a licensed engineer, and the applicant must be able to demonstrate the ability to satisfy these submittal requirements or standards at the pre-construction phase.

9. A written statement, signed by the City Engineer, that sanitary sewers with sufficient capacity to serve the proposed development and that adequate sewage treatment plant capacity is available to the City to serve the proposed development.

**H. Storm**

1. A storm water quality and detention plan shall be submitted which complies with the submittal criteria and approval standards contained within CDC Chapter 33. It shall include profiles of proposed drainageways with reference to the adopted Storm Drainage Master Plan. (ORD. 1463)
2. Storm treatment and detention facilities shall be sized to accommodate a 25-year storm incident. A registered civil engineer shall prepare a plan and statement which shall be supported by factual data that clearly shows that there will be no adverse off-site impacts from increased intensity of runoff downstream or constriction causing ponding upstream. The plan and statement shall identify all on- or off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine the off-site impacts from a 25-year storm. (ORD. 1408)
3. Plans shall demonstrate how storm drainage will be collected from all impervious surfaces including roof drains. Storm drainage connections shall be provided to each dwelling unit/lot. The location, size, and type of material selected for the system shall correlate with the 25-year storm incident. (ORD. 1408)
4. Treatment of storm runoff shall meet Municipal Code standards.

**I. Utility Easements.** All subdivisions and partitions shall establish, at

minimum, five-foot utility easements on front and rear lot lines. Easements may be wider and side yard easements established, as determined by the City Engineer to accommodate the particular service. The developer of the subdivision shall make accommodation for cable television wire in all utility trenches and easements so that cable can fully serve the subdivision. (ORD. 1382)

**J. Supplemental Provisions**

1. Wetland and Natural Drainageways. Wetlands and natural drainageways shall be protected as required by Chapter 30, Wetland and Riparian Area Protection, and Chapter 32, Natural Drainageway Areas. Utilities may be routed through the protected corridor as a last resort, but impact mitigation is required. (ORD. 1463)
2. Willamette and Tualatin Greenways. The approval authority may require the dedication to the City, or setting aside of, greenways which will be open or accessible to the public. Except for trails or paths, such greenways will usually be left in a natural condition without improvements. Refer to CDC Chapters 28 and 29 for further information on the Willamette and Tualatin River Greenways.
3. Street Trees. Street trees are required as identified in the appropriate section of the Municipal Code and Chapter 54 of this Code.
4. Lighting. To reduce ambient light and glare, high or low pressure sodium light bulbs shall be required for all subdivision street or alley lights. The light shall be shielded so that the light is directed downwards rather than omni-directional.
5. Dedications and Exactions. The City may require an applicant to dedicate land and/or construct a public improvement that provides a benefit to property or persons outside the property that is the

subject of the application when the exaction is roughly proportional. No exaction shall be imposed unless supported by a determination that the exaction is roughly proportional to the impact of development. (ORD. 1442)

6. Underground Utilities. All utilities, such as electrical, telephone, and television cable, that may at times be above ground or "overhead" shall be buried underground in the case of new development. The exception would be in those cases where the area is substantially built out and adjacent properties have above ground utilities and where the development site's frontage is under 200 feet and the site is less than one acre. High voltage transmission lines, as classified by Portland General Electric or electric service provider, would also be exempted. Where adjacent future development is expected or imminent, conduits may be required at the direction of the City Engineer. All services shall be underground with the exception of standard above-grade equipment such as some meters, etc.
7. Density Requirement. Density shall occur at 70 percent or more of the maximum density allowed by the underlying zoning. These provisions would not apply when density is transferred from Type I and II lands as defined in CDC Section 02.000. Development of Type I or II lands are exempt from these provisions. Land divisions of three lots or less would also be exempt. (ORD. 1408)
8. Mix Requirement. The "mix" rule means that developers shall have no more than 15 percent of the R-2.1 and R-3 development as single-family residential. The intent is that the majority of the site shall be developed as medium high density multi-family housing.
9. Heritage Trees/Significant Tree and Tree Cluster Protection. All heritage trees, as defined in the Municipal Code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may

be removed at his/her direction. All non-heritage trees and clusters of trees (three or more trees with overlapping dripline; however, native oaks need not have an overlapping dripline) that are considered significant by virtue of their size, type, location, health, or numbers, shall be saved pursuant to CDC Section 55.100(B)(2). Trees are defined per the Municipal Code as having a trunk 6" in diameter or 19" in circumference at a point five feet above the mean ground level at the base of the trunk.

(ORD. 1403)

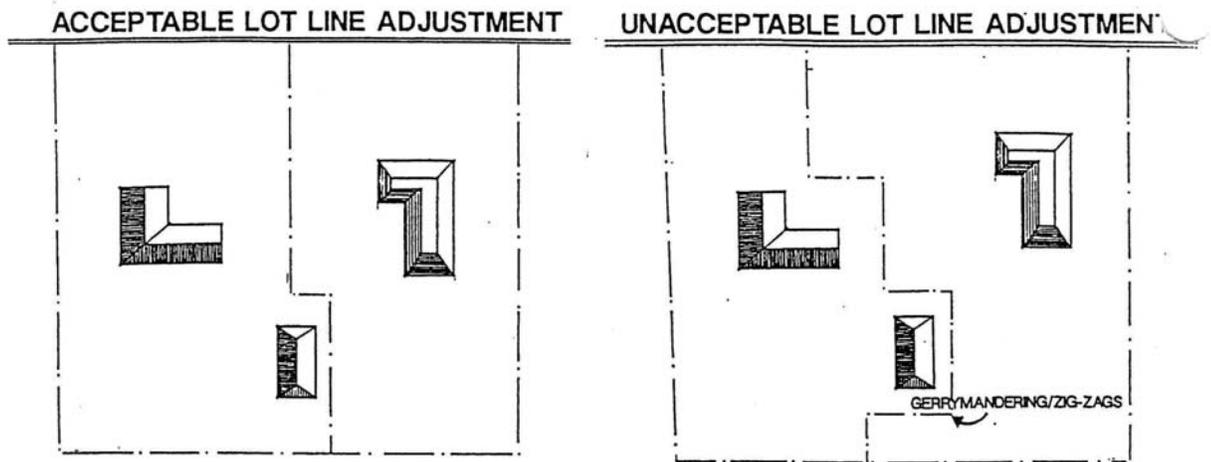
10. Annexation and street lights. Developer and/or homeowners' association shall, as a condition of approval, pay for all expenses related to street light energy and maintenance costs until annexed into the City, and state that: "This approval is contingent on receipt of a final order by the Portland Boundary Commission, approving annexation of the subject property." This means, in effect, that any permits, public improvement agreements, final plats, and certificates of occupancy may not be issued until a final order is received. (ORD. 1408)

## 85.210

### LOT LINE ADJUSTMENTS - APPROVAL STANDARDS

- A. The Director shall approve or deny a request for a lot line adjustment based on the criteria stated below:
  1. An additional lot or buildable lot shall not be created by the lot line adjustment and the existing parcel shall not be reduced in size by the adjustments below the minimum lot size established by the approved zoning for that district.
  2. By reducing the lot size, the lot or structure(s) on the lot shall not be in violation of the site development regulations for that district. For example, the lot line adjustment shall not result in an overall loss of density below 70 percent except as allowed by CDC Section 85.200(J)(7). (ORD. 1442)

3. The lot line adjustment is intended to allow minor lot line deviations, or to consolidate undersized or irregular shaped lots. It can also be used to change a limited number of property lines up to the point that the County Surveyor would determine a re-plat of the subdivision is in order. A replat is the complete reconfiguration and realignment of a subdivision's lot lines.
4. New lot lines shall be generally straight with only a few deviations. Lot lines shall not gerrymander or excessively zig zag along to accommodate tool sheds, accessory structures, other buildings, etc. The figure below serves as a guide to lot line adjustments.



6. An appeal must be filed in accordance with Section 99.240.
- B. The provisions of Section 85.070 shall also apply to lot line adjustments.

(AMENDED PER ORD. 1474; 9/01, ORD. 1544 1/07, ORD. 1565 4/08, ORD. 1584; 12/08)

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**89.000 SUBDIVISION AND PARTITION PLATS**

**89.010 SUBMISSION OF SUBDIVISION OR PARTITION PLAT**

- A. Within one year after approval of the tentative plan, the developer shall cause the final plat, or any part thereof, to be surveyed and a final plat prepared by a licensed land surveyor and submitted to the Planning Director in conformance with:
  - 1. The approved tentative plan.
  - 2. The factors set forth in this chapter.
  - 3. The provisions of Chapter 93, Design Standards, of this Code; and
  - 4. The provisions of Chapter 91, Improvement Guarantee, of this Code.
- B. The developer shall submit the original mylar plat intended for recording, a mylar plat copy and five prints of the final plat and any supplementary information to the Planning Director. The plat and copy shall be prepared to the "Standards for Polyester Film Plats" as adopted by this Code.  
(ORD. 1201)

**89.020 INFORMATION REQUIRED ON THE PLAT OR MAP**

- A. In addition to that required for the tentative plan or otherwise specified by law, the following information shall be shown on the plat:
  - 1. The date, scale, northpoint (generally pointing up), legend, and controlling topography such as drainageways and highways;
    - a. County roads shall show county road number.
    - b. Adjacent plats, lots, parcels and/or unplatted land with fine dashed lines, and designated lots, blocks, plat names and county plat numbers. (ORD. 1287)
  - 2. Legal description of the tract boundaries and total plat area.
  - 3. Name and address of the surveyor.
  - 4. Reference points of existing surveys identified and related to the plat by distances and bearings, and references to a Record of Survey filed with the County Surveyor as follows:

- a. All monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision.
- b. Adjoining corners of all adjoining subdivisions.
- c. Whenever the City or County has established the centerline of a street adjacent to or within the proposed subdivision, the location of this line and monuments found or reset must be tied and shown.
- d. All other monuments found or established in making the survey of the subdivision or required to be installed by provision of this chapter.
- e. The exact location, width and names of streets, pedestrian ways, and bicycle paths within and intersecting the boundary of the tract.
- f. Lines with dimensions, bearings, or central angles radii, arcs, chords, chord bearings, points of curvature, and tangent bearings for tract, lot, and block boundaries, and street right-of-way, and centerlines. Normal high water lines for any creek, drainageway, or other body of water. Tract boundaries and street bearing shall be shown to the nearest second of angle with basis of bearing noted on the plat. All distances shall be shown to at least the nearest 0.01 feet. No ditto marks shall be used. Lot, tract, parcel, and total plat areas should be shown to the nearest one square foot.
- g. The width of that portion of streets being dedicated or deeded, the width of any existing right-of-way and the width each side of the centerline. For streets on curvature, curve data shall be based on the street centerline.

- h. Easements denoted by fine dotted lines, clearly identified, and if already of record, their recorded reference. Each easement is to be definitely located. Each easement shall show the following:  
The width of the easement, its length and bearing, and/or sufficient ties to definitely locate the easement with respect to the subdivision. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication and by other notes on the face of the plat.
- i. Plat name or partition number, lot and block or parcel number shall be per ORS 92.050(4) and 92.090(1). The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure.
- j. Identification of land parcels to be dedicated or deeded for any purpose, public or private, to be distinguished from lots intended for sale.
- k. Building setback lines, if any are to be made a part of the subdivision restrictions and not shown on the recorded plat.
- l. The City may require a separate mylar copy of the plat with the setbacks added.
- m. Designation of proposed partitions of subdivisions to be platted, if any indicated proposed sequence of platting.
- n. The following certificates which may be combined where appropriate:
  - 1) A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and record of said map.

- 2) A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map and intended for any public use, except land dedicated for public roadways of partitions, in which case separate deeds shall be accepted by the City and recorded with the County. Those parcels which are for the exclusive use of the lot owners in the subdivision, their licenses, visitors, tenants and servants shall require a signed certificate and acknowledged as above.
- 3) A certificate signed by the surveyor responsible for the survey and final map; the signature of the surveyor to be accompanied by his seal.
- 4) All other certifications now or hereafter required by law.

B. Standards for polyester film plats:

1. All plats for subdivisions, partitions, condominiums, and cemeteries shall meet the following minimum standards and requirements in addition to any standards and requirements prescribed by Oregon Revised Statutes, County ordinances, or other similar documents.
2. Plat materials - plats shall be prepared upon material that is 18 inches by 24 inches in size with an additional 3-inch binding edge on the left side for a total size of 18 inches by 27 inches.  
Exact copies of the original plat shall be placed on either 3 or 4 mil base thickness, double matted static free polyester drafting film.
3. Standards - In addition to the standards and requirements of the Oregon Revised Statutes, county ordinances, city ordinances and other similar documents, the following standards and

requirements shall be met:

- a. All signatures of dedicators, surveyors, notaries, city and county officials, and others shall be in black India type ink. Blue, red or other colors of ink; felt tip or similar pens; ballpoint pens; photographed or otherwise reproduced signatures; etc. are not acceptable. Notwithstanding Section 3 and 2, photographed signatures are acceptable on the exact copy so long as they are clear and legible.
- b. All lettering, lines and other work shall be either original black India type ink or photographed on polyester film by a silver halide process meeting industry standards for archival permanency.
- c. Corrections to the polyester film shall be made in such a manner as to not remove or damage the "matte" or "tooth" of the polyester film in any manner that will affect the archival permanency of the plat. Damage to, or removal of, the "matte" or "tooth" of the polyester film will be cause to reject the plat for filing.
- d. Original plats shall be placed on only the face side of the polyester film. All lettering and lines shall be placed on the same side of the polyester film.
- e. All lettering on the plat shall be of such a size or type to be clearly legible. A lettering template shall be a minimum size "80" (0.08 inches) for upper case letters and a minimum size "100" (0.1 inches) for lower case letters. Hand lettering shall be done in such a manner so as to conform to these minimum sizes. "Shadow" letter is not acceptable. All drafting shall be done with a line width

compatible with the letter size.

- f. The plat boundary shall be a solid bold line completely around the tract platted.
- g. Drafting ink shall be suitable for drafting on polyester film, such as Pelikan "FT," Higgins T-100 or equal.
- h. All surveyor, notary, corporate, or other stamps/seals shall be of a permanent nature and incapable of removal. Stamps/seals shall be black, opaque and legible.
- i. All plats and copies of plats prepared by a silver halide permanent photocopy process shall be accompanied by a certificate from the person that prepared them, that they were prepared in accordance with industry standards for archival permanency.
- j. All corrections of silver halide permanent photocopies made by the use of a chemical eradicator shall be done in such a manner as to completely neutralize and remove all traces of the chemical from the plats.
- k. All pages of the plat copies shall bear a certificate signed in original ink, meeting the requirements of Section 3(a), by the surveyor that prepared them to wit: "I certify that this tracing is an exact copy of the original plat." The certificate shall not appear on the "original plat."
- l. No part of the survey or mathematical information, or any lettering shall come nearer any edge than one inch.
- m. The plat shall be of such scale that all survey and mathematical information, all lettering and all other details and information are shown clearly thereon. The plat shall be capable of being microfilmed and reproduced from said microfilm clearly and legibly on such equipment as made

available by the City or County.

- n. Standard engineering scales of 1 inch = 10, 20, 30, 40, 50, or 60 feet shall be used. One inch = 100 or 200 feet may be used only with specific approval of the City or County Surveyor having jurisdiction.
- o. Submitting any wrinkled, folded, creased, etc. polyester film plat will be cause to reject the plat for filing.

**89.030**

**SUPPLEMENTAL INFORMATION REQUIRED FOR A  
FINAL PLAT**

The following information shall accompany the final plat:

- A. A preliminary title report, issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises;
- B. For subdivisions, a copy of the recorded plat boundary survey from the County Surveyor.
- C. Sheets and drawings showing the following:
  - 1. Traverse data including the coordinates of the boundary of the land division and ties to section corners and donation land claim corners. The error of closure shall not exceed 1:10,000. All error is to be removed by adjusting the plat or map.
  - 2. The computations of all coordinates, distances, angles, courses shown on the final plat or map.
  - 3. Ties to existing monument, proposed monuments, adjacent subdivisions, or partitions, street corners and state highway stationing.
- D. A copy of any deed restrictions applicable to the subdivision or partition.
- E. A copy of any dedication requiring separate documents.
- F. A list of all taxes and assessments on the tract which have become a lien on the tract.
- G. A certificate by a registered civil engineer certifying that the developer has

complied with one of the following alternatives:

1. All improvements have been installed in accordance with the requirements of these regulations and with the action of the Planning Commission or Planning Director as applicable giving conditional approval of the tentative plan. (ORD. 1287)
2. An agreement has been executed as provided in Chapter 90 to assure completion of all required improvements.

**89.040 TECHNICAL PLAT REVIEW**

- A. Upon receipt by the City, the plat, and other data shall be reviewed by the Planning Director who shall examine the information to determine that the subdivision as shown is substantially the same as it appeared in the approved tentative plan, and that there has been compliance with provisions of the applicable implementing ordinances.
- B. The City Engineer shall review the plat to assure easements have been established to protect utilities, and that required improvements of Chapter 92 and the improvements guarantee of Chapter 91 have been established.
- C. The City Surveyor shall make such checks in the office and in the field as are desirable to assure compliance with ORS Chapters 92 and 209 to verify that the map is sufficiently correct on the ground. The City's representatives may enter the property for this purpose.
- D. If the Planning Director, City Engineer and/or City Surveyor determines that full conformity has not been made, he shall advise the developer of the changes or additions that must be made and shall afford the developer an opportunity to make the changes or additions.

**89.050 APPROVAL AND APPROVAL CRITERIA**

- A. No plat shall be approved unless the Planning Director finds:
  1. The provisions of this chapter have been satisfied.
  2. The streets and roads for public use are dedicated without any reservation or restriction other than reversionary right upon vaca-

- tion of any such street or road and easements for public utilities.
3. The streets and roads held for private use and indicated on the tentative plan of such subdivision or partition have been approved by the City.
  4. The plat complies with any applicable zoning ordinance or regulations adopted under ORS 92.044 that are in effect.
  5. The plat is in substantial conformity with the provisions of the tentative plan as approved.
  6. Where required as a condition of approval, the plan contains a dedication or deed to the public of all common improvements, including but not limited to streets, roads, parks, sewerage disposal, and water supply systems.
  7. Where common improvements are required as a condition of approval, explanations of the common improvements have been recorded and referenced on the plat.
- B. No plat of a subdivision or partition shall be approved unless the City Engineer finds:
1. A certificate from the domestic water supplier that water is available to each and every lot, or a bond, contract or other assurance by the subdivider that water will be installed to each and every lot or a statement that no domestic water supply facility will be provided as required by ORS 92.090(4).
  2. A certificate from the sewage disposal system supplier that a sewage disposal system will be available to each and every lot, or a bond, contract or other assurance by the developer that a sewer will be installed to each and every lot, or a statement that no sewage system will be provided as required by ORS 92.090(5).
  3. The requirements of Chapter 91, Improvements Guarantee, have been met.



- C. No plat of a subdivision or partition shall be approved unless the City Surveyor finds: (ORD. 1287)
1. The plat is in conformance with ORS Chapter 92.050 thru 92.090 and Section 88.020 of this Code.
  2. The plat mylar original and mylar copy conform to the "Standards for Polyester Film Plats" as required by Section 88.020(B) of this Code.
  3. The "post monumentation" bond or cash deposit in the amount of 120 percent of the estimated cost of placing the interior monumentation has been furnished to the City. The estimated cost shall be prepared by the platting surveyor and approved by the City Surveyor.

**89.060**

**PROCESS FOLLOWING APPROVAL BY THE PLANNING DIRECTOR, CITY ENGINEER, AND CITY SURVEYOR OF A PLAT FOR A SUBDIVISION OR PARTITION**

Following review and approval of a subdivision or partition plat by the Planning Director, City Engineer, and City Surveyor, no plat shall be recorded by the developer unless:

1. All ad valorem taxes and all special assessments, fees, or other charges required by law to be placed upon the tax will have been paid and the subdivider or partitioner shall pay all money owing and obtain the approval signature on the face of the plat from the County Department of Assessment and Taxation.  
The subdivision and partition plat mylars shall include the following text to insure that taxes have been properly paid.

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES AS PROVIDED BY ORS 92.095 HAVE BEEN PAID THROUGH

\_\_\_\_\_.

CERTIFIED/APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_.  
Clackamas County Assessor and Tax Collector

BY \_\_\_\_\_ DEPUTY

BY \_\_\_\_\_ DEPUTY  
(ORD. 1354)

2. The Planning Director has signed the plat certifying the plat is approved.
3. The City Engineer has signed the plat certifying the plat is approved.
4. A licensed land surveyor has certified that the plat complies with all applicable laws.
5. A majority of the Board of County Commissioners or the Board's delegate has signed certifying that the plat is approved.

(ORD. 1287)

**89.070 FILING OF PLAT**

- A. The developer shall, without delay, submit the plat for signatures of other public officials required by law. Approval of the plat shall be null and void if the plat is not recorded within 90 days after the date the last required approving signatures have been obtained.
- B. One reproducible copy together with six prints of the recorded plat shall be supplied to the City. (ORD. 1287)

**89.080 FINAL PLAT FILING FEE**

The developer shall pay to the City a final plat filing fee as established by City Council to defray the costs incurred to the City in checking, investigating and other matters required by state law, this ordinance and other City ordinances. This fee must be paid at the time of submittal of a final plat application.

**89.090**

**EFFECTIVE DATE OF FINAL APPROVAL**

- A. A subdivision shall become final upon recording the plat under ORS 92.120(1) with Clackamas County.
- B. A partition shall become final upon recording the map under ORS 92.120 with Clackamas County.

(AMENDED PER ORD. 1354; 2/94)



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**91.000 IMPROVEMENT GUARANTEE**

**91.010 IMPROVEMENTS**

- A. Before approval by the Planning Director and the City Engineer of a final subdivision, partition plat, building permit, or construction plans (other than plans for required improvements), the developer shall:
1. Install required improvements and repair existing streets and other public facilities damaged in the development of the property; or,
  2. The developer shall also provide reimbursement to the City for costs of processing inspection, professional services, etc., of said required improvements by the City. Monthly costs of the City shall be billed against the six percent of construction cost deposit made by the developer to the City prior to construction of required improvements. The developer shall ensure that the deposit balance remains positive. If the developer is notified that the balance is negative, the developer has seven calendar days to correct the overage and provide additional deposit as specified by the City Engineer. Failure of the developer to correct the situation by that date will result in the issuance of a stop-work order by the City which shall remain in force until said fees are paid in full and additional deposit provided.

(ORD. 1502)

- B. The City shall install all street name signs and traffic control devices for the initial signing of a new development, with said costs to be reimbursed by the developer.
- C. Upon written acceptance by the City of required improvements, the developer shall execute a maintenance bond with a surety company authorized to transact business in the state; such bond to be in a form approved by the City Attorney. The maintenance bond shall guarantee satisfactory performance required and installed improvements included in

the subdivision or partition for a maximum period of 18 months from the date of written approval/acceptance by the City of said improvements. The amount of said maintenance bond shall be in an amount equivalent to 20 percent of the total installation cost of required improvements. The maintenance bond shall also provide financial guarantee for any damage caused to said improvement during the period of the maintenance bond.

(ORD. 1502)

- D. Until such time as all required improvements within the subdivision or partition have been accepted by the City, the developer shall be solely responsible for the cleanup of debris, dirt, and foreign materials derived from this development or project, upon sidewalks and roadways. To guarantee performance of this responsibility, the developer shall provide a cash deposit in the amount of five percent of the total installation of the improvements. The developer shall be responsible for all safety and cleaning all debris, dirt, and foreign material derived from his development or project by five p.m. of each workday; except that if said debris, dirt, or foreign material is found by the City Engineer to constitute an immediate traffic or safety hazard, it shall be immediately removed by the developer. The developer shall furnish the City with information as to where the developer or a designated subordinate may be reached at all times by the City regarding the performance of such cleanup work. Failure of the developer to clean up debris, dirt, or foreign material as herein above stated, shall give the City the right to clean up said debris, dirt, or foreign material utilizing City crews, or to hire an independent contractor to do the same and deduct same costs from the five percent cash deposit. The City shall bill the developer for all such cleanup services at the rate of twice the actual City labor costs incurred plus 35 percent of such actual labor costs reflecting utilization of City equipment. In the event that the City hires a private contractor to perform these services, the City shall bill the developer the actual cost incurred by the private contractor plus 50 percent

of said actual costs reflecting the administrative costs incurred. The deposit shall be kept in a positive balance within the same criteria as the deposit noted in Section 91.020(A)(2) above with the same ramifications for failure. (ORD. 1502)

- E. Before the City accepts any required improvements within a subdivision or major partition and releases the performance bond, the developer shall furnish to the City certification of a registered civil engineer that said improvements have been installed and meet all applicable City, state, and federal requirements. (ORD. 1502)

## **91.020**

### **PERFORMANCE BOND WITH IMPROVEMENTS REQUIRED**

- A. Prior to commencement of construction of said improvements and to assure full and faithful performance thereof, the developer shall file one of the following: (ORD. 1502)
1. A surety bond executed by a surety company authorized to transact business in the state, such bond to be in a form approved by the City Attorney;
  2. A personal bond cosigned by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement in a form approved by the City Attorney;
  3. Cash;
  4. Executed application for Bancroft bonding in approved improvement district; or,
  5. An irrevocable assignment agreement executed by a financial institution in a form approved by the City Attorney.
- B. Such assurance of full and faithful performance shall be for a sum approved by the City Engineer as sufficient to cover 125 percent of the cost of the improvements and repairs, including related engineering and incidental

expenses, and to cover the cost of City inspections.

(ORD. 1502) (ORD. 1574)

- C. In the event the developer fails to execute the completion of the said improvements within the timeframe mutually agreed upon by the developer and City Engineer, and the City has unreimbursed costs or expenses resulting from such failure, the City shall call upon the bond or cash deposit. If said bond or cash deposit exceeds costs and expenses incurred by the City, it shall release the remainder after acceptance by the City of said repaired improvements. If the amount of the bond or cash deposit is less than the cost and expense incurred by the City, the developer shall be liable to the City for the difference.
- (ORD. 1502)

**91.030 OPEN SPACE CONVEYANCE**

When the tentative plan of a proposed subdivision or map of a partition includes open space, it shall be conveyed in accordance with one of the following methods:

- A. By dedication to the City as publicly owned and maintained as open space. Open space proposed for dedication to the City must be acceptable to the City with regard to the size, shape, location, improvement, and budgetary and maintenance limitations.
- B. By leasing or conveying title (including beneficial ownership) to a corporation, owners' association, or other legal entity. Restrictions on development of the parcel shall be placed on the final plat or otherwise recorded. The specific language of the restrictions shall be approved by the City prior to recordation. The terms of such lease or other instrument of conveyance must include provisions suitable to the City Attorney for guaranteeing the following: (ORD. 1442)
1. The continued use of such land for the intended purposes.
  2. Continuity of property maintenance.
  3. When appropriate, the availability of funds required for such maintenance.

4. Adequate insurance protection.
5. Recovery of loss sustained by casualty and condemnation or otherwise.

C. By any method which achieves the objectives set forth in (B) above.

**91.050**

**APPLICABILITY**

The foregoing requirements apply to: (ORD. 1502)

1. Any construction of public improvements within an existing public right-of-way and/or easement; and,
2. Any construction of public improvements within a tract that does not require replatting prior to building permit issuance.

(AMENDED PER ORD. 1502; 4/04; ORD. 1574 2/07)

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## **92.000 REQUIRED IMPROVEMENTS**

### **92.010 PUBLIC IMPROVEMENTS FOR ALL DEVELOPMENT**

The following improvements shall be installed at the expense of the developer and meet all City Codes and standards:

A. Streets within subdivisions. All streets within a subdivision including alleys, shall be graded for the full right-of-way width and improved to the City's permanent improvement standards and specifications which include sidewalks and bicycle lanes, unless the decision-making authority makes the following findings:

1. The right-of-way cannot be reasonably improved in a manner consistent with city road standards, or city standards for the protection of wetlands and natural drainageways.
2. The right-of-way does not provide a link in a continuous pattern of connected local streets, or if it does provide such a link, that an alternative street link already exists or the applicant has proposed an alternative street which provides the necessary connectivity, or the applicant has proven that there is no feasible location on the property for an alternative street providing the link.

When the decision-making authority makes these findings, the decision-making authority may impose any of the following conditions of approval:

1. A condition that the applicant initiate vacation proceedings for all or part of the right-of-way.
2. A condition that the applicant build a trail, bicycle path, or other appropriate way.

If the applicant initiates vacation proceedings pursuant to sub-section 1, and the right-of-way cannot be vacated because of opposition from adjacent property owners, the City Council shall consider and decide whether to process a city-initiated street vacation pursuant to ORS 271. (ORD. 1442)

Construction staging area shall be established and approved by the City Engineer.

Clearing, grubbing, and grading for a development shall be confined to areas that have been granted approval in the land use approval process only. Clearing, grubbing, and grading outside of land use approved areas can only be approved through a land use approval modification and/or an approved Building Department grading permit for survey purposes. Catch basins shall be installed and connected to pipe lines leading to storm sewers or drainageways. (ORD. 1408)

B. Extension of streets to subdivisions. The extension of subdivision streets to the intercepting paving line of existing streets with which subdivision streets intersect shall be graded for the full right-of-way width and improved to a minimum street structural section and width of 24 feet. (ORD. 1192)

C. Local and minor collector streets within the right-of-ways abutting a subdivision shall be graded for the full right-of-way width and approved to the City's permanent improvement standards and specifications. The City Engineer shall review the need for street improvements and shall specify whether full street or partial street improvements shall be required. The City Engineer shall also specify the extent of storm drainage improvements required. The City Engineer shall be guided by the purpose of the City's systems development charge program in determining the extent of improvements which are the responsibility of the subdivider. (ORD. 1321)

D. Monuments. Upon completion of the first pavement lift of all street improvements, monuments shall be installed and/or re-established at every street intersection and all points of curvature and points of tangency of street centerlines with an iron survey control rod. Elevation benchmarks shall be established at each street intersection monument with a cap (in a monument box) with elevations to U.S. Geological Survey datum that exceeds a distance of 800 feet from an existing benchmark. (ORD. 1408)

E. Surface drainage and storm sewer system. A registered civil engineer shall prepare a plan and statement which shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity

of runoff off-site of a 100-year storm, or the plan and statement shall identify all off-site impacts and measures to mitigate those impacts commensurate to the particular land use application. Mitigation measures shall maintain pre-existing levels and meet buildout volumes, and meet Planning and Engineering requirements. (ORD. 1408)

- F. Sanitary sewers. Sanitary sewers shall be installed to City standards to serve the subdivision and to connect the subdivision to existing mains.
1. If the area outside the subdivision to be directly served by the sewer line has reached a state of development to justify sewer installation at the time, the Planning Commission may recommend to the City Council construction as an assessment project with such arrangement with the subdivider as is desirable to assure financing his share of the construction.
  2. If the installation is not made as an assessment project, the City may reimburse the subdivider an amount estimated to be a proportionate share of the cost for each connection made to the sewer by property owners outside of the subdivision for a period of 10 years from the time of installation of the sewers. The actual amount shall be determined by the City Administrator considering current construction costs.
- G. Water system. Water lines with valves and fire hydrants providing service to each building site in the subdivision and connecting the subdivision to City mains shall be installed. Prior to starting building construction, the design shall take into account provisions for extension beyond the subdivision and to adequately grid the City system. Hydrant spacing to be based on accessible area served according to City Engineer's recommendations and City standards. If required water mains will directly serve property outside the subdivision, the City may reimburse the developer an amount estimated to be the proportionate share of the cost for each connection made to the water mains by property owners outside

the subdivision for a period of 10 years from the time of installation of the mains. If oversizing of water mains is required to areas outside the subdivision as a general improvement, but which no new connections can be identified, the City may reimburse the developer that proportionate share of the cost for oversizing. The actual amount and reimbursement method shall be as determined by the City Administrator considering current or actual construction costs.

H. Sidewalks.

1. Sidewalks shall be installed on both sides of a public street and in any special pedestrian way within the subdivision, except that in the case of primary or secondary arterials, or special type industrial districts, or special site conditions, the Planning Commission may approve a subdivision without sidewalks if alternate pedestrian routes are available.

In the case of the double frontage lots, provision of sidewalks along the frontage not used for access shall be the responsibility of the developer. Providing front and side yard sidewalks shall be the responsibility of the land owner at the time a request for a building permit is received. Additionally, deed restrictions and CC&Rs shall reflect that sidewalks are to be installed prior to occupancy and it is the responsibility of the lot or homeowner to provide the sidewalk, except as required above for double frontage lots. (ORD. 1180)

2. On local streets serving only single-family dwellings, sidewalks may be constructed during home construction, but a letter of credit shall be required from the developer to ensure construction of all missing sidewalk segments within four years of final plat approval pursuant to Section 91.010(A)(2).
3. The sidewalks shall measure at least six feet in width and be separated from the curb by a six-foot minimum width planter strip. Reductions in widths to preserve trees or other topographic

features, inadequate right-of-way, or constraints, may be permitted if approved by the City Engineer in consultation with the Planning Director. (ORD. 1401)

4. Sidewalks should be buffered from the roadway on high volume arterials or collectors by landscape strip or berm three and one-half foot minimum width.
5. The City Engineer may allow the installation of sidewalks on one side of any street only if the City Engineer finds that the presence of any of the factors listed below justifies such waiver:
  - a. The street has, or is projected to have, very low-volume traffic density;
  - b. The street is a dead end street;
  - c. The housing along the street is very low-density; or,
  - d. The street contains exceptional topographic conditions such as steep slopes, unstable soils, or other similar conditions making the location of a sidewalk undesirable.

(ORD. 1339)

- I. Bicycle routes. If appropriate to the extension of a system of bicycle routes, existing or planned, the Planning Commission may require the installation of separate bicycle lanes within streets and separate bicycle paths.
- J. Street name signs. All street name signs and traffic control devices for the initial signing of the new development shall be installed by the City with sign and installation costs paid by the developer.
- K. Dead end street signs. Signs indicating "future roadway" shall be installed at the end of all discontinued streets. Signs shall be installed by the City per City standards, with sign and installation costs paid by the developer.
- L. Signs indicating future use shall be installed on land dedicated for public facilities (e.g., parks, water reservoir, fire halls, etc.). Sign and installation costs shall be paid by the developer.

M. Street lights. Street lights shall be installed and shall be served from an underground source of supply. The street lighting shall meet IES lighting standards. The street lights shall be the shoe-bov style light (flat lens) with a 30-foot bronze pole in residential (non-intersection) areas. The street light shall be the cobra head style (drop lens) with an approximate 50-foot (sized for intersection width) bronze pole. The developer shall submit to the City Engineer for approval of any alternate residential, commercial, and industrial lighting, and alternate lighting fixture design. The developer and/or homeowners' association is required to pay for all expenses related to street light energy and maintenance costs until annexed into the City.

(ORD. 1408)

N. Utilities. The developer shall make necessary arrangements with utility companies or other persons or corporations affected for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting, and cable television, shall be placed underground.

O. Curb cuts and driveways. Curb cuts and driveway installations are not required of the subdivider at the time of street construction, but, if installed, shall be according to City standards. Proper curb cuts and hard-surfaced driveways shall be required at the time buildings are constructed.

P. Street trees. Street trees shall be provided by the City Parks and Recreation Department in accordance with standards as adopted by the City in the Municipal Code. The fee charged the subdivider for providing and maintaining these trees shall be set by resolution of the City Council.

(ORD. 1339)

Q. Joint mailbox facilities shall be provided in all residential subdivisions, with each joint mailbox serving at least two, but no more than eight, dwelling units. Joint mailbox structures shall be placed in the street right-of-way adjacent to roadway curbs. Proposed locations of joint mailboxes shall be

designated on a copy of the tentative plan of the subdivision, and shall be approved as part of the tentative plan approval. In addition, sketch plans for the joint mailbox structures to be used shall be submitted and approved by the City Engineer prior to final plat approval. (ORD. 1287)

**92.020 IMPROVEMENTS IN PARTITIONS**

The same improvements shall be installed to serve each lot of a partition as is required of a subdivision. However, if the approval authority finds that the nature of development in the vicinity of the partition makes installation of some improvements unreasonable, at the written request of the applicant those improvements may be waived. (ORD. 1287) If the street improvement requirements are waived, the applicant shall pay an in-lieu fee for off-site street improvements, pursuant to the provisions of CDC 85.200(A)(1).

(ORD. 1442) (ORD. 1544)

In lieu of accepting an improvement, the Planning Director may recommend to the City Council that the improvement be installed in the area under special assessment financing or other facility extension policies of the City. (ORD. 1192)

**92.030 IMPROVEMENT PROCEDURES**

In addition to other requirements, improvements installed by the developer, either as a requirement of these regulations or at the developer's own option, shall conform to the requirements of this title and permanent improvement standards and specifications adopted by the City and shall be installed in accordance with the following procedure:

- A. Improvement work shall not be commenced until plans have been checked for adequacy and approved by the City. To the extent necessary for evaluation of the proposal, the improvement plans may be required before approval of the tentative plan of a subdivision or partition. Plans shall be prepared in accordance with the requirements of the City.
- B. Improvement work shall not be commenced until the City has been notified in advance, and if work has been discontinued for any reason, it shall not be resumed until the City has been notified.

- C. Improvements shall be constructed under the Engineer. The City may require changes in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change.
  - D. All underground utilities, sanitary sewers, and storm drains installed in streets by the subdivider or by any utility company shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length obviating the necessity for disturbing the street improvements when service connections are made.
  - E. A digital and mylar map showing all public improvements as built shall be filed with the City Engineer upon completion of the improvements.
- (ORD. 1408)

**92.040 SPECIFICATIONS FOR IMPROVEMENTS**

The City Engineer shall prepare and submit to the City Council specifications to supplement the standards of this title based on engineering standards appropriate for the improvements concerned. Specifications shall be prepared for the design and construction of required public improvements, such other public facilities as a developer may elect to install, and private streets.

**92.050 CHANGES IN SUBDIVISION PHASE NUMBERS PROHIBITED**

Subdivision phase numbers shall remain the same from tentative approval through final platting. The only permitted change would be the addition of an alphabetic suffix. For example, tentatively approved Columbia Heights III could be broken down at final platting into Columbia Heights III-A, III-B, III-C, etc. It could not be broken down numerically into Columbia Heights III, IV, V.

(AMENDED PER ORD. 1442; 10/99; ORD. 1544 1/

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**96.000**

**STREET IMPROVEMENT CONSTRUCTION**

**96.010**

**CONSTRUCTION REQUIRED**

**A. New Construction**

1. Building permits shall not be issued for the construction of any new building or structure, or for the remodeling of any existing building or structure, which results in an increase in size or includes a change in use including building permits for single-family dwellings, but excepting building permits for alteration or addition to an existing single-family dwelling, unless the applicant for said building permit agrees to construct street improvements as required by the land use decision authorizing the construction activity. The placement of new curbs and the drainage facilities required shall be determined by the City Manager or the Manager's designee. (ORD. 1544)
2. If the building permit did not require a prior land use decision, the applicant shall construct street improvements which shall include curbs, sidewalks, drainage facilities, and pavement widening to meet new curbs, along all city streets which abut the property described in the building permits. (ORD. 1544)
3. An applicant for a building permit may apply for a waiver of street improvements and the option to make a payment in lieu of construction. The option is available if the City Manager or the Manager's designee determines the Transportation System Plan prohibits the street improvement for which the waiver is requested. (ORD. 1547)
4. When an applicant applies for and is granted a waiver of street improvements under CDC 96.010 (A)(3), the applicant shall pay an in-lieu fee for improvements to be applied to the nearest street identified by the Manager or the Manager's designee, as necessary and appropriate. The amount of the in-lieu fee shall be roughly proportional to the impact of the development on the street system. (ORD. 1544)

5. The City's determination of the appropriate in-lieu fee shall constitute an interpretation of the code, as authorized by CDC 99.060(A)(3), and may be appealed subject to the provisions of CDC Chapter 99.  
(ORD. 1442) (ORD. 1544)

**B. REMODELING OF AN EXISTING BUILDING**

Building permits shall not be issued for the remodeling and conversion of any existing building or structure which results in an increase in size or includes a change of use excepting building permits for the alteration or addition to an existing single family dwelling, unless:

- a) The applicant for said building permit agrees to construct street improvements; and
  - b) The City Manager or the Manager's designee determines that the remodeling of a structure or change of use is sufficient to cause construction of street improvements. (ORD 1544)
- 
2. The determination of whether the remodeling of an existing building or structure is sufficient to cause the property owner to construct street improvements, shall be made by the City Manager or the Manager's designee. This determination shall be based upon finding that the increase in building size or change of use results in either:
    - a. An increase in floor area which creates the need for additional on-site parking in accordance with the Community Development Code, or
    - b. A change in use that results in a need for additional on-site parking, or
    - c. An increase in the dwelling unit density on the site, or
    - d. A change in the type, number, or location of accessways where off-site traffic will be affected. (ORD. 1314)

3. An applicant for a remodeling of an existing building or structure change may apply for a waiver of street improvements and the option to make a payment in lieu of construction utilizing the process described in CDC 96.010 (A) (3). (ORD 1544)

**C.** Replacement of an existing building.

1. Building permits shall not be issued for the replacement of any existing building or structure which results in an increase in size unless:
  - a) The applicant for said building permit agrees to construct street improvements; and
  - b) The City Manager or the Manager's designee determines the replacement is sufficiently increased in size to cause construction of street improvements. (ORD. 1544)

**D.** Notwithstanding any other provisions of this ordinance, in cases where the issuance of the building permit pertains to the construction or reconstruction of a building or structure within a large development owned by the same owner or owners, the City Council may, in its sole discretion, authorize the installation of street improvements of equivalent cost on another portion of the total development area. (ORD. 1544)

**96.020 STANDARDS**

Street improvements shall be installed according to the City standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section, provided that the applicant provides sufficient security in amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.

(AMENDED PER ORD. 1442; 10/99; ORD. 1544 2/07)



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**97.000 STREET NAME CHANGES**

**97.010 PURPOSE**

The purpose of this chapter is to provide standards for granting an alteration of a street name from the name given, and dedicate as a part of the original plat to a new name; or change a name created and dedicated outside of the filing of an original plat.

**97.020 ADMINISTRATION AND APPROVAL PROCESS**

- A. A street name change shall be decided by the City Council.
- B. All street name change requests shall be heard at the first meeting in December. In an emergency, the City Council may consider street name change requests at other times during the year.
- C. The City Council shall approve, alter, or amend the request, or deny an application for a street name change. Along with any approval shall be the establishment of an effective date. All street name changes approved in December shall be effective the following first day of June.

**97.030 THE APPLICATION**

- A. The street name change application shall be initiated by the City Council or any person who submits a petition for the street name change signed by the property owners of not less than 50 percent of those properties which abut the right-of-way which is the subject of street name change.
- B. The application shall include the existing and proposed street names.
- C. The application shall include a description of the right-of-ways which will be affected by the name change.

**97.040 PUBLIC NOTICE**

Notice of the proposed street name change shall be given by the Planning Director in the following manner:

- A. At least four weeks prior to the public hearing, a notice shall be sent by mail to:

1. The applicant.
  2. All abutting property owners of record subject to the provision of Section 99.100.
  3. All abutting residents.
  4. Any affected governmental agency which has entered into an intergovernmental agreement with the City which includes provisions for such notice.
  5. The affected recognized neighborhood association or citizen advisory committee.
- B. At least two weeks prior to the hearing or meeting date, notice shall be given in a newspaper of general circulation in the City. An affidavit of publication shall be made part of the administrative record.

**97.050 APPROVAL CRITERIA**

The City Council shall approve, alter or amend, or deny a street name change based on findings of fact for each of the following criteria.

- A. Conformance with street naming standards contained under Section 85.160 (D)(1). (ORD. 1565)
- B. There is a public need for the change or that the change can be demonstrated to be in the interest of the present and future community.

**97.060 NOTICE OF FINAL DECISION**

The final decision shall be filed in the records of the Planning Director within 10 calendar days after the decision is signed and notice thereof shall be mailed to:

1. The applicant;
2. The abutting property owners;
3. All abutting residents;
4. All City departments including water/sewer;
5. Clackamas County Assessor's office;
6. United States Postal Service;
7. Clackamas County 9-1-1 system. (ORD. 1242)  
(Amended per ORD. 1565 4/08)

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### ADMINISTRATIVE PROCEDURES

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## **ADMINISTRATIVE PROCEDURES**

### **98.000 PROCEDURES FOR DECISION MAKING: LEGISLATIVE**

#### **98.010 PURPOSE**

The purpose of this chapter is to establish procedures applicable to the Community Development Code for the consideration of legislative changes to the provisions of the Comprehensive Plan, implementing ordinances and maps. The procedures of this chapter are not required for adopting or amending Comprehensive Plan supporting documents which are not provisions of the Plan. Plans that are supporting documents shall be adopted pursuant to the procedures set forth in CDC Chapter 100. (ORD. 1434)

#### **98.030 THE APPLICATION PROCESS: WHO MAY APPLY, TIME PERIOD, THE REQUIREMENTS**

- A. Who may apply.
1. A proposed legislative change may be initiated by:
    - a. Motion by the City Council;
    - b. Motion by the Planning Commission;
    - c. The Planning Director;
    - d. Recognized neighborhood association. The association must transmit its requested change to the Planning Director, accompanied by documentation as to the vote of the association and the minutes of its discussion;
    - e. Any other party wishing to propose a legislative change may petition the Planning Commission or City Council to consider such change. The Planning Commission or City Council, after considering the petition, may choose to initiate a legislative change or deny the petition.

(ORD. 1474)

B. Time period.

A proposed legislative change will be heard by the Planning Commission, which acts in an advisory capacity to the Council, within 60 days of initiation of proposal. The proposed legislative change will then be heard by the City Council at the next available meeting, but in any circumstance, no later than 60 days after the Planning Commission recommendation.

The date of initiation is the date the motion for change is adopted by the City Council or Planning Commission, or the date the Planning Director has received a proposal from a recognized neighborhood association.

(ORD. 1474)

C. The City Council may, by same or separate motion, adopt a longer time period for Planning Commission hearings of proposed legislative changes.

(ORD. 1474)

**98.040**

**DUTIES OF THE DIRECTOR**

A. The Director shall:

1. If appropriate, or if directed by the City Council or Planning Commission in their motion, consolidate several legislative proposals into a single file for consideration. (ORD. 1474)
2. Upon the initiation of a legislative change, pursuant to this chapter:
  - a. Give notice of the Planning Commission hearing as provided by Sections 98.070 and 98.080;
  - b. Prepare a staff report that shall include:
    - 1) The facts found relevant to the proposal and found by the Director to be true;
    - 2) The statewide planning goals and rules adopted under ORS Chapter 197 found to be applicable and the reasons why any other goal and rule is not applicable to the proposal except that goals 16 - 19

which are not applicable to the City of West Linn need not be addressed;

- 3) Any federal or state statutes or rules the Director found applicable;
  - 4) Metro plans and rules the Director found to be applicable;
  - 5) Those portions of the Comprehensive Plan found to be applicable, and if any portion of the plan appears to be reasonably related to the proposals and is not applied, the Director shall explain the reasons why such portions are not applicable;
  - 6) Those portions of the implementing ordinances relevant to the proposal; and if the provisions are not considered, the Director shall explain the reasons why such portions of the ordinances were not considered; and,
  - 7) An analysis relating the facts found to be true by the Director to the applicable criteria and a statement of the alternatives; a recommendation for approval, denial, or approval with modifications, and at the Director's option, an alternative recommendation.
- c. Make the staff report and all case file materials available 10 days prior to the scheduled date of the public hearing under Section 98.070.
  - d. Cause a public hearing to be held pursuant to Section 98.070.
3. Administer the hearings process;
  4. Transmit the record to the Council for hearing; and,

- a. Give notice of the Council hearing as provided by Sections 98.070 and 98.080; and,
  - b. Prepare a report which shall include at a minimum the following:
    - 1) A copy of the staff report submitted to the Planning Commission;
    - 2) A copy of the Planning Commission's recommendation;
    - 3) A copy of the minutes of the Planning Commission hearing.
  - c. Make a report to the Council; and,
  - d. Administer the hearings process.
5. Maintain and preserve the file for each proposal. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given pursuant to Section 98.070 and the accompanying affidavits, the proposal and all supporting information, the staff reports, the final adopted document, all correspondence, the minutes of any meetings at which the proposal was considered and any other exhibits, information or documentation which was considered with respect to the proposal.

(ORD. 1474)

**98.050 RECOMMENDATION AND ALTERNATIVE RECOMMENDATION BY THE DIRECTOR**

- A. The Director shall make a recommendation to the Planning Commission on the proposal; however, in addition, the Director may recommend an alternative or alternatives.
- B. Where the alternative recommendation involves a different plan designation, or a different zone designation than is the subject of the proposal, such alternative recommendation shall be considered only if:

1. Notice of such an alternative is given as part of the hearing notice in addition to matters contained in Section 98.080; and,
  2. The staff report prepared as provided by Section 98.040(2) supports the alternative recommendation.
- C. As a result of the public hearing on the proposed change, the Planning Commission may on its own motion recommend to the Council an alternative recommendation; however, in addition, the Commission must take action on the specific proposal before it.

(ORD. 1474)

**98.060 CONSOLIDATION OF PROCEEDINGS**

- A. In the event there is a proposal for a legislative change to the plan and a proposal for a legislative change to an implementing ordinance, both of which involve either the same geographic area or the same subject matter, the hearings may be consolidated, however,
1. The decision on the proposed plan change shall precede the decision on the proposed change to the implementation ordinances;
  2. Separate action shall be taken on each proposal; and,
  3. The change to the implementing ordinance shall implement the change to the plan.

(ORD. 1474)

**98.070 PUBLIC HEARINGS - NOTICE**

- A. The Planning Commission shall hold at least one public hearing;
- B. The City Council shall hold at least one public hearing;
- C. Legislative notice, where there is a proposal to amend the Comprehensive Plan or to amend or to adopt new land use regulations of this Development Code, shall be effected as follows:

(ORD. 1354)

1. At least 10 days prior to the scheduled hearing date notice shall be sent to:

- a. Any affected governmental agency, including Oregon Department of Transportation, Metro, and Tri-Met. (ORD. 1425)
  - b. Affected recognized neighborhood associations or citizens advisory committees; and,
  - c. Any person who requests such notification in writing. (ORD. 1474)
2. At least 10 days prior to the hearing or meeting date, notice shall be given in a newspaper of general circulation in the City. An affidavit of publication shall be made part of the administrative record. (ORD. 1354)
  3. At least 10 days, but no more than 40 days prior to hearing of a proposed zone change for manufactured home parks, notice shall be given to the respective manufactured home park residents.
  4. Notice shall be forwarded to the director of Department of Land Conservation and Development (DLCD) in a format and at a time required by Oregon Revised Statutes and Oregon Administrative Rules governing such notification. (ORD. 1474)
  5. If the Planning Director determines that the proposed change requires notice pursuant to ORS 227.186, the Planning Director shall provide such notice. The Planning Commission shall review the determination of the Planning Director and shall order additional notice as appropriate. (ORD. 1474)
  6. The City should make reasonable efforts to post notice of the proposal on the City's website at least 20 days prior to the hearing or meeting. Failure to comply with this section is not a procedural defect entitling any party to a delay in the hearing process. (ORD. 1474)

D. The Director shall: (ORD. 1287)



1. For each mailing of notice cause an affidavit of mailing of notice to be filed and made a part of the record as provided by Section 98.150; and,
2. For each published notice cause an affidavit of publication to be filed and made a part of the record as provided by Section 98.150.

**98.080 MECHANICS OF GIVING NOTICE, FAILURE TO GIVE NOTICE, COMPUTATION OF NOTICE PERIOD**

- A. Where either the Planning Commission or Council or both intend to hold more than one public hearing on the same proposal, notice of the several public hearings before the Commission may be given in one notice in the manner provided under Section 98.070(C) and this section, and notice of the several public hearings before the Council may be given in one notice in the manner provided under Section 98.070(C).
- B. The notice given to persons entitled to mailed or published notice pursuant to this section shall include the following information:
  1. The number and title of the file containing the proposal and the address and phone number of the Director's office where additional information can be obtained;
  2. A description of the location of the proposal reasonably calculated to give notice as to the location of the affected geographic area, if any;
  3. A description of the substance of the proposal in sufficient detail for people to determine that a change is contemplated and the place where all relevant materials and information may be obtained or reviewed; and,
  4. The time(s), place(s), and date(s) of the public hearing(s), a statement that public oral or written testimony is invited, and persons and other entities must establish standing at the first

evidentiary hearing to retain the right to appeal, and a statement that the hearing will be held under this chapter and rules of procedure adopted by the Council and available at City Hall or the rules of procedure set forth in Section 98.120. (ORD. 1474)

- C. The failure of a person entitled to notice under Section 98.070(C)(1) and (3) to receive notice shall not invalidate the action provided a good faith attempt was made to notify all persons entitled to notice.
- D. Personal notice is deemed given when the notice is deposited with the United States Postal Service.
- E. Published notice is deemed given on the date it is published.
- F. In computing the length of time that notice was given, the first date notices is given shall be excluded and the day of the hearing shall be included.

(ORD. 1474)

**98.090 CONTINUATION OF THE HEARING**

The Planning Commission or the Council may continue any hearing and no additional notice shall be given of a continued hearing if the matter is continued to a place, date, and time certain.

**98.100 THE STANDARDS FOR THE DECISION**

- A. The recommendation of the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:
  - 1. The statewide planning goals and rules adopted under ORS Chapter 197 and other applicable state statutes;
  - 2. Any federal or state statutes or rules found applicable;
  - 3. Applicable plans and rules adopted by the Metropolitan Service District;
  - 4. The applicable Comprehensive Plan policies and map; and,  
(ORD. 1226)
  - 5. The applicable provisions of the implementing ordinances.
- B. Consideration may also be given to:



1. A mistake or inconsistency in the Comprehensive Plan or implementing ordinance as it relates to the property which is the subject of the proposal; and, (ORD. 1474)
2. Factual oral testimony or written statements from the parties, other persons and other governmental agencies relevant to the existing conditions or factors in sub-section (A) or sub-section (B) (1), above.

**98.110 APPROVAL PROCESS AND AUTHORITY**

- A. The Planning Commission shall:
  1. After notice and a public hearing, formulate a recommendation to the Council to approve, to deny, or to approve with modifications.
  2. Within 10 days of determining a recommendation, cause the written recommendation to be signed by the presiding officer and to be filed with the Director.
- B. Any member of the Commission who voted in opposition to a recommendation by the Commission on a proposed change may file a written statement of opposition with the Director prior to any Council hearing on the proposed change, and the Director shall transmit a copy to each member of the Council and place a copy in the record.
- C. If the Commission fails to recommend approval or denial or approval with modifications of the proposed legislative change within 60 days of its first hearing on the proposed change, the Director shall report the failure, together with the proposed change to the Council. The Council may then choose to either refer the proposed change back to the Planning Commission with specific instructions, or may direct the Planning Director to place the proposed change on the Council agenda and cause notice to be given, hold a public hearing, and make a decision on the proposed change.
- D. The Council shall:

1. Have the sole authority to approve, deny, or approve with modifications a proposal for a legislative change or to remand to the Commission for rehearing and reconsideration all or part of a proposal transmitted to it under this chapter;
2. Consider the recommendation of the Planning Commission; however, it is not bound by the Commission's recommendation; and,
3. Act by ordinance, which shall be signed by the Mayor within 10 days after the Council's adoption of the ordinance.
4. If the Council determines that the proposed amendments being considered for adoption include issues not raised before the Planning Commission during its deliberations, the Council shall remand the legislative change back to the Planning Commission for its review and recommendation regarding the new issues.
5. When making a determination pursuant to subsection 4 above, the Council shall deem an issue not to have been raised only if an issue bears no reasonable relation to the proposed amendments previously considered by the Commission. Furthermore, for the purposes of subsection 4 above, when an entire Code chapter is being considered for amendment, all issues contained in that chapter shall be considered to have been raised by the Commission in its deliberations.

(ORD. 1474)

**98.120 HEARINGS PROCEDURES**

- A. Unless otherwise provided in the Rules of Procedure adopted by the Council:
  1. The presiding officer of the Commission and of the Council shall have the authority to:
    - a. Regulate the course, sequence and decorum of the hearing;

- b. Dispose of procedural requirements or similar matters; and,
    - c. Impose reasonable time limits for oral presentations.
  2. No person shall address the Commission or the Council without:
    - a. Receiving recognition from the presiding officer; and,
    - b. Stating their full name and residence address.
  3. Disruptive conduct such as audience demonstrations in the form of applause, cheering, display of signs, shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
- B. Unless otherwise provided in the Rules of Procedure adopted by the Council, the presiding officer of the Commission and of the Council shall conduct the hearing as follows:
  1. The hearing shall be opened by a statement from the presiding officer setting forth the nature of the matter before the body, a general summary of the procedures set forth in this section, a summary of the standards set forth in Section 98.100 and whether the decision which will be made is a recommendation to the Council or whether it will be the final decision of the Council.
  2. A presentation by the Director or staff that explains the request, shows the location and site plan, explains existing conditions, discusses the applicable approval criteria.
  3. If the neighborhood association has initiated the proposed change, then the association shall make its presentation.
  4. The Director or staff will present the staff report with particular emphasis upon major issues and issues raised by the public at the hearing, and recommendations.
  5. The public will be invited to provide oral testimony in support, opposition, or neutral to the proposal.

6. If the neighborhood association has initiated the proposed change, then the association has the opportunity for a rebuttal of earlier testimony and a closing presentation.
7. The hearing may be continued or it may be closed.
8. The decision-making body's deliberation may include questions to the staff or comments from the staff.
9. A decision is made to approve or deny the proposal, or to approve with modifications.

(ORD. 1474)

**98.130**

**VOTE REQUIRED FOR A LEGISLATIVE CHANGE**

- A. An affirmative vote by a majority of the voting members present of the Commission shall be required for a recommendation for the approval or approval with modifications. The Chairperson of the Commission at the meeting shall vote only to break a tie vote. Any other result shall be considered a recommendation to the City Council to deny the proposal.

(ORD. 1474)

- B. An affirmative vote by a majority of the qualified members of the Council present shall be required to decide any motion made with respect to the proposed change.

**98.140**

**THE FINAL DECISION**

- A. The approved legislative change shall take effect on the 30th day after its enactment unless it is declared to be an emergency, in which case the ordinance shall take effect immediately.
- B. Notice shall be forwarded to the director of Department of Land Conservation and Development (DLCD) in a format and at a time required by Oregon Revised Statutes and Oregon Administrative Rules governing such notification. Not later than five working days after the final decision, the Planning Director also shall mail or otherwise submit notice to persons

who:

(ORD. 1474)



1. Participated in the proceedings leading to the adoption of the amendment to the Comprehensive Plan or land use regulation, or the new land use regulation; and,
  2. Requested of the Planning Director in writing that they be given such notice.
- C. The notice required by this sub-section shall:
1. Describe briefly the action taken by the City;
  2. State the date of the decision;
  3. List the place where, and the time when, the amendment to the acknowledged Comprehensive Plan or land use regulation, or the new land use regulation, and findings, may be reviewed;
  4. Explain the requirements for appealing the action of the City under ORS 197.830 to 197.845.
- D. Not later than five working days after final action on an amendment to an acknowledged Comprehensive Plan or land use regulation, or a new land use regulation submitted under Section 98.070(C)(4), the Director shall notify by mail or other submission, any persons who have requested notification. The notice shall: (ORD. 1474)
1. Explain the requirements for appealing the action of the City under ORS 197.830 to 197.845; and,
  2. List the locations where the Comprehensive Plan or land use regulation amendment, or new land use regulation may be reviewed. (ORD. 1354)

**98.150 THE RECORD OF HEARING**

- A. A verbatim record of the proceeding shall be made by stenographic or mechanical means. It shall not be necessary to transcribe testimony. The minutes and other evidence presented as a part of the hearing shall be part of the record.

- B. All exhibits received and displayed shall be marked so as to provide identification and shall be part of the record.
- C. The official record shall include:
  - 1. All material considered by the hearing body;
  - 2. All materials submitted by the Planning Director to the hearings body with respect to the proposal; (ORD. 1474)
  - 3. The verbatim record made by stenographic or mechanical means, the minutes of the hearing and other documents considered;
  - 4. The final ordinance;
  - 5. All correspondence; and,
  - 6. A copy of the notice which was given as provided by Section 98.070 of this chapter, accompanying affidavits, and list of persons who were sent mailed notices.

**98.160 RE-INITIATION**

If any proposal has been made and denied in accordance with the provisions set forth in this chapter or by action of the Land Use Board of Appeal, the Land Conservation and Development Commission or the courts, no new proposal for the same, or substantially similar change shall be accepted within one year from the date of the final action denying the proposal except the Council may reinitiate a proposal upon a finding that there has been a substantial change in the facts surrounding the proposal which would support the re-consideration.

(ORD. 1474)

(AMENDED PER ORD. 1474, 9/01)



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**99.000 PROCEDURES FOR DECISION MAKING: QUASI-JUDICIAL  
99.010 PURPOSE**

The purpose of this chapter is to establish procedures applicable to the Community Development Code for the consideration of development applications, for the consideration of quasi-judicial Comprehensive Plan amendments, and for the consideration of appeals or petitions for review of decisions. (ORD.1474)

**99.030 THE APPLICATION PROCESS: WHO MAY APPLY, THE PRE-APPLICATION CONFERENCE, THE REQUIREMENTS, REFUSAL OF THE APPLICATION, FEES**

A. Who may apply.

1. Applications for approval required under this chapter may be initiated by:
  - a. The owner of the property that is the subject of the application or the owner's duly authorized representative;
  - b. The purchaser of such property who submits a duly executed written contract or copy thereof, which has been recorded with the Clackamas Clerk;
  - c. A lessee in possession of such property who submits written consent of the owner to make such application; or,
  - d. Motion by the Planning Commission or City Council.

(ORD. 1568)

2. Any person authorized by this chapter to submit an application for approval may be represented by an agent who is authorized in writing by such a person to make the application.

B. Pre-application conference required.

1. The applicant shall be required to meet with the Planning Director, or designee of the Director, or any other governmental agency

representative deemed appropriate by the Director, for a pre-application conference, unless the requirement for a pre-application conference is specifically waived by another section of this code. (ORD. 1568)

2. At such conference, the Planning Director or designee shall:
  - a. Cite the applicable federal and state laws and rules and the Comprehensive Plan policies and map designation;
  - b. Cite the applicable substantive and procedural ordinance provisions;
  - c. Provide technical data and assistance, which will aid the applicant;
  - d. Identify other policies and regulations that relate to the application; and,
  - e. Identify other pertinent factors that relate to the application.
  - f. provide the applicant with a written description of all rights for appeal and provide access to all administrative procedures. (ORD. 1568)
3. The failure of the Director to provide any of the information required by this section shall not constitute a waiver of the standards, criteria, or requirements to the application.
4. At least 10 days prior to the scheduled date of the conference, the City shall make the pre-application conference schedule available to the public. Within 10 days following the conference, the City shall make staff-prepared written notes summarizing the contents of the meeting available to the public. Failure to comply with this section due to technical or administrative problems is not a procedural defect entitling any party to a delay in the hearing process. (ORD. 1568)
5. The Planning Director shall prepare administrative procedures designed to allow representatives from recognized Neighborhood

Association to attend and participate in pre-application conferences for applications within the Neighborhood Association boundaries. Failure of a Neighborhood Association to participate in the pre-application conference despite being invited to attend is not a procedural defect entitling any party to a delay in the hearing process. (ORD. 1568)

6. If the applicant is not the owner of the subject property, the applicant shall provide written evidence that the owner has consented to the pre-application conference prior to it being scheduled.

C. The requirements for making an application:

1. The application shall be made on forms provided by the Director as provided by Section 99.040(A)(1) of this Code;
2. The application shall be complete and shall contain the information requested on the form, shall address the appropriate submittal requirements and approval criteria in sufficient detail for review and action, and shall be accompanied by the deposit or fee required by Section 99.033. No application will be accepted if not accompanied by the required fee or deposit. In the event an additional deposit is required by Section 99.033 and not provided within the time required, the application shall be rejected without further processing or deliberation and all application materials shall be returned to the applicant, notwithstanding any determination of completeness. (ORD 1527) (ORD 1568)

**99.033 FEES**

The Council shall adopt a schedule of fees reasonably calculated to defray the expenses of the administrative process. The Council may establish either a set fee or a deposit system in which the applicant pays a deposit and the City determines the total administrative cost at the end of the process and refunds any

unused amount of the deposit of the applicant. When a deposit rather than a set fee is required, the City shall periodically estimate the anticipated administrative cost for the application and determine whether the deposit is sufficient. If the deposit is insufficient, the City shall inform the applicant that an additional deposit is required and establish the amount to 110 percent of the City's anticipated costs that will not be covered by all previous deposits. The additional deposit shall be paid within 10 days of the demand for the additional deposit. No additional deposit shall be required for additional costs that are incurred because the matter is referred to or called up by a higher decision-making authority. The Council shall charge no fees for City-initiated land use applications or appeals filed by a recognized neighborhood association pursuant to the provisions of CDC Section 99.240. (ORD 1527)

**99.035            ADDITIONAL INFORMATION REQUIRED, WAIVER OF REQUIREMENTS AND REPORT REQUIRED**

- A.     The Planning Director may require information in addition to that required by a specific chapter in the Community Development Code provided that:
  - 1.     The chapter expressly authorizes that additional information may be required;
  - 2.     The information is needed to properly evaluate the proposed site plan or proposal; and,
  - 3.     The need can be justified on the basis of a special or unforeseen circumstance.
  
- B.     The Planning Director may waive a specific requirement for information or a requirement to address a certain approval standard subject to the provisions of (C) below provided:
  - 1.     The Planning Director finds that specific information is not necessary to properly evaluate the application; or,
  - 2.     The Planning Director finds that a specific approval standard is not applicable to the application. (ORD 1568)

- C. Where a requirement is waived, the Planning Director shall cite in the staff report on the application, the specific requirements waived and the reasons for the waiver. The decision of the Planning Director to waive the requirement is subject to review and denial by the approval authority or the appeal authority. (ORD 1568)

99.038

### **NEIGHBORHOOD CONTACT REQUIRED FOR CERTAIN APPLICATIONS**

Prior to submittal of an application for any subdivision, conditional use permit, multi-family project, planned unit development, commercial, office, or industrial development of over 1,500 square feet, or a zone change that requires a Comprehensive Plan Amendment, the applicant shall contact and discuss the proposed development with any affected neighborhood as provided in this section. Although not required for other or smaller projects, contact with neighbors is highly recommended. The Planning Director may require neighborhood contact pursuant to this section prior to the filing of an application for any other development permit if the Director deems neighborhood contact to be beneficial. (ORD. 1425)

1. Purpose. The purpose of neighborhood contact is to identify potential issues or conflicts regarding a proposed application so that they may be addressed prior to filing. This contact is intended to result in a better application and to expedite and lessen the expense of the review process by avoiding needless delays, appeals, remands, or denials. The City expects an applicant to take the reasonable concerns and recommendations of the neighborhood into consideration when preparing an application. The City expects the neighborhood association to work with the applicant to provide such input.
2. The applicant shall contact by letter all recognized neighborhood associations whose boundaries contain all or part of the site of the proposed development and all property owners within 500 feet of the site.

3. The letter shall be sent by certified mail, return receipt requested, to the Chair of the neighborhood association, and shall be sent by regular mail to the other officers of the association and the property owners within 500 feet. The letter shall briefly describe the nature and location of the proposed development, and invite the association and interested persons to a meeting to discuss the proposal in more detail. The meeting shall be scheduled at the association's regularly scheduled monthly meeting, or at the discretion of the association, and not less than 20 days from the date of mailing of the notice. If the neighborhood association does not want to meet within a reasonable amount of time, or if there is no neighborhood association, the applicant may hold a public meeting during the evening after 6 p.m., or on the weekend no less than 20 days from the date of mailing of the notice. All meetings shall be held at a location open to the public within the boundaries of the association or at a public facility within the City of West Linn. If the meeting is held at a private residence or business, it shall be posted at the time of the meeting as the meeting place and shall note that the meeting is open to the public and all interested persons may attend.
4. On the same date the letters described in subsection 1 through 3 of this section are mailed, the applicant shall provide and post notice on the property subject to the proposed application. The notice shall be posted at a location visible from the public right-of-way. If the site is not located adjacent to a through street, then an additional sign shall be posted on the nearest through street. The sign notice shall be at least 11" X 17" in size on durable material and in clear, legible writing. The notice shall state that the site may be subject to a proposed development (e.g., subdivision, variance, conditional use) and shall set forth the name of the applicant and a telephone number where the applicant can be reached for additional information. The site shall remain posted until the conclusion of the

meeting.

5. An application shall not be accepted as complete unless and until the applicant demonstrates compliance with this section by including with the application:
  - a. A copy of the certified letter to the neighborhood association with a copy of return receipt.
  - b. A copy of the letter to officers of the association and to property owners within 500 feet, including an affidavit of mailing and a copy of the mailing list containing the names and addresses of such owners and residents.
  - c. A copy of the required posted notice, along with an affidavit of posting; and,
  - d. A copy of the minutes of the meetings, produced by the neighborhood association, which shall include a record of any verbal comments received, and copies of any written comments from property owners, residents, and neighborhood association members. If there are no minutes, the applicant may provide a summary of the meeting comments. The applicant shall also send a copy of the summary to the Chair of the neighborhood association. The Chair shall be allowed to supplement the summary with any additional comments regarding the content of the meeting, as long as such comments are filed before the record is closed.
  - e. An audiotape of the meeting.
  - f. In the event that it is discovered by staff that the aforementioned procedures of this section were not followed, or that a review of the audio tape and meeting minutes show the applicant has made a material misrepresentation of the project at the neighborhood meeting, the application shall be deemed incomplete until the applicant demonstrates compliance with CDC Section 99.038.

(ORD. 1474)

**99.040 DUTIES OF THE DIRECTOR**

- A. The Director shall:
1. Prepare application forms made pursuant to the standards contained in the applicable state law, Comprehensive Plan and implementing ordinance provisions;
  2. Accept all development applications that comply with the provisions of Section 99.030 of this chapter;
  3. After accepting an application pursuant to this chapter:
    - a. Determine whether an application is complete, and comply with state statutes governing the completeness determination for applications. The determination of the Director is subject to review by the Approval Authority in its deliberation on the application.
    - b. Give notice as provided by Sections 99.080 and 99.090;
    - c. Prepare a staff report which shall include findings as to whether or not the application meets the approval criteria of the applicable Community Development Code sections as presented in the application, and whether or not the criteria can be met with conditions.
    - d. Make the application, all documents or evidence relied upon by the applicant and applicable criteria available at least 20 days prior to the hearing or date of the Director's decision. Make the staff report available at least 10 days prior to the scheduled date of the public hearing(s).
    - e. Act on the development application pursuant to Sections 99.060(A) and 99.160 of this chapter or cause a hearing to be held pursuant to Section 99.060(B) through (D) and Sections 99.170 to 99.230 of this chapter, unless the

applicant has requested or consented to a delay;  
(ORD. 1474)

4. Administer the hearings process pursuant to Sections 99.170 through 99.230 of this chapter.
5. Maintain a register of all applications that have been filed for a decision. The register shall at all times identify at what stage the application is in the process. The register shall be posted on the City website unless technical problems prevent this. (ORD. 1474)
6. File notice of the final decision in the records of the Planning Department and mail a copy of the notice of the final decision to the applicant and all parties with standing.  
The notice of the final decision shall contain the information set forth under Section 99.130(B).
7. Maintain and preserve the file for each application. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given pursuant to Section 99.080 and the accompanying affidavits; the application and all supporting information; the staff report; the final decision including the findings, conclusions, and conditions, if any; all correspondence; the minutes of any meetings at which the application was considered; and any other exhibit(s), information, or documentation which was considered by the hearing body with respect to the application; and,
8. Administer the appeals and review process pursuant to Sections 99.240 through 99.310.

#### **99.060 APPROVAL AUTHORITY**

This section explains the authority of Planning Director, Planning Commission, City Council, and Historic Review Board as it relates to quasi-judicial and legislative action.

## **PLANNING DIRECTOR AUTHORITY**

- A. The Planning Director shall have the authority to:
1. Approve, deny, or approve with conditions, applications for the following development applications.
    - a. A temporary use application for a period of six months or less (ch. 35). (ORD 1568)
    - b. A home occupation application (ch. 37) (ORD.1565&1568)
    - c. Access restrictions (ch. 48). (ORD 1568)
    - d. A minor partition (ch. 85). (ORD 1568)
    - e. A final subdivision plat (ch. 89). (ORD 1568)
    - f. A final partition plat (ch. 89). (ORD 1568)
    - g. A lot line adjustment (ch. 85). (ORD 1568)
    - h. Enlargement or alteration of a non-conforming single-family structure containing a conforming use (ch. 66). (ORD 1568)
    - i. Decide applications for a determination of unlisted unlisted parking requirements (ch. 46). (ORD 1568)
    - j. A minor alteration to a historic landmark or a structure in the Historic District (ch. 25,26). (ORD 1568)
    - k. Parks Design Review, Class I (ch. 56). (ORD 1568)
    - l. Design Review, Class I (ch. 55). (ORD 1568)
    - m. A sign application (ch. 52). (ORD 1568)
    - n. Sidewalk use permit (ch. 53). (ORD 1568)
    - o. Flood management area permit (ch. 27). (ORD. 1463, ORD 1568)
    - p. Erosion and sediment control permit (ch. 31). (ORD. 1463 & 1510 ORD 1568)
    - q. Tualatin River Protection permit (ch. 29). (ORD 1547, ORD 1568)
    - r. Water Resource Area permit (ch. 32).

- (ORD. 1547 ORD 1568)
- s. Class I Variance (ch. 75). (ORD. 1547, ORD 1568)
- t. Willamette River Greenway permit (ch. 28).  
(ORD. 1547, ORD 1568)
- 2. Approve a use permitted under prescribed conditions provided all of the conditions are satisfied.
- 3. Make initial interpretations of the provisions of the Code.
- 4. Make the initial determination regarding the status of the following:
  - a. Non-conforming structure (ch. 66). (ORD 1568)
  - b. Non-conforming structure involving a non-conforming use (ch. 65). (ORD 1568)
  - c. Non-conforming use of land (ch. 67). (ORD 1568)  
(ORD. 1474)

**PLANNING COMMISSION AUTHORITY**

- B. The Planning Commission shall have the authority to:
  - 1. Make a recommendation to approve, deny, or approve with conditions to the Council:
    - a. A quasi-judicial Comprehensive Plan Map amendment. (ch. 105). (ORD 1568)
    - b. A quasi-judicial zone change involving a concurrent application for a quasi-judicial Plan Map amendment as provided by Section 99.030(A) (ch. 35). (ORD 1568)
  - 2. Approve, deny, or approve with conditions:
    - a. A quasi-judicial zone change application 9 (ch. 105). (ORD 1568)
    - b. A temporary use or structure application for a period of greater than six months (ch. 35). (ORD 1568)
    - c. A conditional use (ch. 60). (ORD 1568).

- d. Enlargement of a non-conforming use or alteration for a structure containing a non-conforming use (ch. 66). (ORD 1568)
  - e. Enlargement or alteration of a non-single family residential non-conforming use (ch. 66). (ORD 1568)
  - f. Class II variance (ch. 75) (ORD 1568)
  - g. Subdivision (ch. 85) (ORD 1568).
  - h. Planned unit development (ch. 24). (ORD 1525, ORD 1568)
  - i. Design Review, Class II (ch. 55). (ORD 1525, ORD 1568)
  - j. Parks Design Review, Class II (ch. 56). (ORD 1525, ORD 1568)
  - k. Any matter not specifically assigned to another approval authority. (ORD. 1545, ORD 1568)
- 3. Revoke or modify an approval as provided by Section 99.330 for any application approved by the Planning Commission or Planning Director. (ORD 1568)
  - 4. Make an unlisted use determination. (ORD. 1474, ORD 1568)
  - 5. An appeal of a Planning Directors interpretation of the Code pursuant to Section 01.060. (ORD 1568)

**CITY COUNCIL AUTHORITY**

- C. The Council shall have the authority to:
  - 1. Approve, deny, or approve with conditions, applications for the following development applications. (ORD 1568)
    - a. A quasi-judicial Comprehensive Plan Map amendment (ch. 105). (ORD 1568)
    - b. A quasi-judicial zone change involving a concurrent application for a quasi-judicial Plan Map amendment (ch. 105). (ORD 1568)

- c. Boundary change proposals (ch. 81).  
(ORD. 1442, ORD 1568)
2. Consider an appeal or review of a decision made by the Planning Director under the provisions of Sections 99.240(A) and 99.080(B). (ORD 1568)
3. Consider an appeal or review of a decision made by the Planning Commission or Historic Review Board whether on the Council's own motion, or otherwise as provided by Section 99.240.  
(ORD. 1568)
4. Decide an appeal of the Director's interpretation of zoning boundaries as provided by Section 05.040. (ORD 1568)
5. Revoke or modify an approval as provided by Section 99.330 for any application approved by City Council, including application approved by the City Council on appeal from another city decision-making authority. (ORD 1568)

#### **HISTORIC REVIEW BOARD AUTHORITY**

- D. The Historic Review Board shall have the authority to approve, deny, or approve with conditions, applications for the following development applications. (ORD. 1474)
  1. New home construction in the Historic District.
  2. Creation of new historic districts.
  3. Major renovation or additions to historic landmarks, and major renovation or additions to structures in the Historic District.
  4. Construction of non-exempt accessory structures and garages to historic landmark properties and properties within a historic district. (ORD 1568)
  5. Demolition permits for the Historic District, to historic buildings in the Willamette Falls Drive Commercial Overlay Zone, and to Historic landmark structures.
  6. New construction, major renovation, and additions in the

Willamette Falls Drive Commercial Overlay Zone.

7. Revoke or modify an approval as provided by Section 99.330 for any application approved by the Historic Review Board.  
(ORD 1568)

### **EXPEDITED LAND DIVISIONS**

- E. Expedited land divisions shall be processed by the Planning Commission without a public hearing pursuant to Oregon Revised Statutes (ORS) 197.360-197.380. Pursuant to ORS 197.360(3), the following city permits may be processed concurrently with an expedited land division application: (ORD. 1510) (ORD 1525)
  1. Pursuant to ORS 197.360(3) , the following city permits may be processed concurrently with an expedited land division application:
    - a) Planned Unit Development
    - b) Willamette River Greenway
    - c) Flood management Area
    - d) Tualatin River
    - e) Water Resource Area (ORD 1568)
    - f) Design Review
  2. The Planning Commission shall make their decision based solely upon the record and staff recommendation.  
(ORD. 1474, ORD 1525)
  3. Appeals of the Planning Commission decision on an expedited land division shall be review pursuant to ORS 197. (ORD 1568)

### **99.070 CONSOLIDATION OF PROCEEDINGS**

Whenever an applicant requests more than one approval and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one

proceeding. In such cases, the hearings shall be held by the approval authority having original jurisdiction over one of the applications under Section 99.060, in the following order of preference: City Council, Planning Commission, or the Planning Director, except for expedited land division applications which shall be processed as described in ORS Chapter 197. For example, if a conditional use permit (CUP) and Class I design review application were submitted, ordinarily the CUP would be heard by the Planning Commission, and Class I design review by

the Planning Director. This hierarchy dictates that the higher body, the Planning Commission, would hear the consolidated hearing. (ORD. 1474)

## **99.080 NOTICE**

Notice shall be given in the following ways: (ORD 1568)

### **A. Class A Notice.**

Notice of proposed action or a development application pursuant to Section 99.060 shall be given by the Director in the following manner:

1. At least 20 days prior to the scheduled hearing date notice shall be sent by mail to:
  - a. The applicant or the applicant's agent, and the property owner of record on the most recent property tax assessment roll where such property is located; (ORD 1568)
  - b. All property owners of record on the most recent property tax assessment roll where such property is located within 500 feet of the site. (ORD 1568)
  - c. Any affected governmental agency which has entered into an intergovernmental agreement with the City which includes provision for such notice; plus, where applicable, Oregon Department of Transportation, Tri-Met, neighboring local jurisdictions, Clackamas County Department of Transportation and Development, and

Metro. (ORD. 1425, ORD 1568)

- d. The affected recognized neighborhood association or citizen advisory committee;
  - e. For a hearing on appeal or review, all parties and persons with standing described in Section 99.140 of this chapter to an appeal or petition for review. (ORD 1568)
- 
- 2. At least 10 days prior to the hearing or meeting date, notice shall be given in a newspaper of general circulation in the City. An affidavit of publication shall be made part of the administrative record. (ORD 1568)
  - 3. At least 10 days prior to the hearing or meeting date, The Planning Director shall cause a sign to be placed on the property, which is the subject of the decision or, if the property does not have frontage on a public street, adjacent to the nearest public street frontage in plain view and shall state, “This property is the subject of a land use decision” with the type of use or request indicated. If the application is not located adjacent to a through street, then an additional sign shall be posted on the nearest through street. (ORD. 1474, ORD 1568)
  - 4. At least 10 days, but no more than 40 days prior to hearing of a proposed zone change for manufactured home parks, notice shall be given to the respective manufactured home park residents.
  - 5. The City shall make reasonable efforts to post notice of the application on the City’s website at least 10 days prior to the hearing, meeting, or decision date. Failure to comply with this section due to technical problems with the website is not a procedural defect entitling any party to a delay in the hearing process. (ORD. 1474)
  - 6. The Director shall cause an affidavit of mailing of notice and

posting of notice to be filed and made part of the administrative record. (ORD 1568)

7. At the conclusion of the land use action the signs shall be removed. (ORD 1568)

B. Class B Notice.

Notice of a proposed action on a development application pursuant to Section 99.060 shall be given by the Director in the following manner:

1. At least 14 days prior to the decision date, a notice shall be sent by mail to:
  - a. The applicant or his agent;
  - b. The affected recognized neighborhood association or citizen advisory committee; and,
  - c. All property owners of record within 100 feet of the site perimeter. (ORD 1568)
  - d. The City shall make reasonable efforts to post notice of the application on the City's website at least 10 days prior to the hearing, meeting, or decision date. Failure to comply with this section is not a procedural defect entitling any party to a delay in the hearing process.

(ORD. 1474, ORD 1568)

- C. Notice for expedited and division applicants shall comply with the requirements of ORS197. (ORD 1568)
- D. Notice for boundary change applications shall comply with the requirements of ORS 222 and relevant Metro statutes. (ORD 1568)
- E. Table of Notices. The following notice summary identifies the appropriate type of notice for the various land use applications of CDC Section 99.060. (ORD 1568)

Land Use Action	Type of Notice
Amendment or Modification of Application or Permit	Same as original application
Appeal or Review of Decision	A
Boundary Change:	Special
Code Interpretation	Notice to parties requesting the interpretation
Comprehensive Plan: Map Amendment Plan/Code Text Amendment (Legislative Action)	A A***
Conditional Use	A
Design Review: Class I Class II	B A
Determination of Unlisted Use	No Notice
Enlarge or Alter Non-Conforming Use/Structure: Commercial or Industrial Single-Family Residential	A B
Erosion and Sediment Control Permit	No Notice
Expedited Land Division	per state statute requirements
Flood Management Area	B**
Final Plat and Partition Plat	No Notice
Historic District: Amendments Demolition New Home Construction Major Renovations or Additions Minor Renovations or Additions Construction of non-exempt accessory structures/ garages	A A B B B B
Home Occupation:	No Notice
Lot Line Adjustment	No Notice
Minor Partition	A
Planned Unit Development	A
Revocation of Approval	A
Sidewalk Use Permit	No Notice
Sign Permit	No Notice
Subdivision	A
Temporary Use Permit: 60 days or less; 60-day extension Over 60 days, up to 1 year	No Notice A
Tualatin River Setback: Uses permitted outright & not subject to design review Uses permitted outright & subject to design review Uses requiring conditional use permit & design review	No Notice B A

Street Vacations	(per state statute requirements)
Variances: Class I (involves a small change with minor or no effect)	B A
Class II (involves a significant change from code requirements)	
Water Resource Area Permit (NDW)	A**
Willamette River Greenway: Development Permit	A**
Uses requiring conditional use permit & design review	A**
Zone Change	A

\*\*Plus COE/DSL is notified

\*\*\*Plus DLCD notice (ORD. 1474, ORD.1545,ORD.1547,ORD.1565, ORD 1568)

## 99.090 CONTENTS OF THE NOTICE

A. Notices mailed pursuant to this code shall comply with applicable provisions of the Oregon Revised Statutes (ORS). Except for expedited land division review, for which ORS Chapter 197 shall apply, notice given to persons entitled to mailed or published notice pursuant to Section 99.060 shall:

1. Explain the type of application and what proposed uses could be authorized.
2. List the applicable criteria from the ordinance and plan.
3. Set forth street address, (if existing) and other easily understood geographical reference of the subject property. (ORD 1568)
4. State the date time, and location of hearing or, for the Planning directors decisions, the earliest date upon which the Director will make a decision.
5. State that failure to raise an issue in a hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to LUBA on that issue.
6. Include the name of government contact and phone number.
7. State that the application, all documents or evidence relied upon by the applicant and applicable criteria are available for inspection at no cost, and copies at reasonable cost.

8. State that a copy of the staff report will be available for inspection at no cost at least 10 days prior to the hearing, and copies at reasonable cost. (ORD. 1474)
  9. A statement that public and written testimony is invited, and include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- B. In addition to the ORS requirements, the notice shall identify the following:
1. The type of land use action proposed (e.g.) “4-lot subdivision.”
  2. Planning Department file number.

**99.100**

**MECHANICS OF GIVING NOTICE AND FAILURE TO RECEIVE NOTICE**

- A. The notification list used for giving notice required by this ordinance under Section 99.080 of this chapter shall be compiled from the most recent property tax assessment roll. (ORD. 1401)
- B. The failure of a property owner to receive notice shall not invalidate the action provided a good faith attempt was made to notify all persons entitled to notice.
- C. Personal notice is deemed given when the notice is deposited with the United States Postal Service. Published notice is deemed given on the date it is published.
- D. In computing the length of time that notice was given, the first date notice is given shall be excluded and the day of the hearing or decision by the Director shall be included.

**99.110**

**THE DECISION-MAKING PROCESS OF THE APPROVAL AUTHORITY**

- A. The decision shall be based on proof by the applicant that the application fully complies with:
  1. The applicable standards of any provision of this Code or other

applicable implementing ordinance.

- B. Consideration may also be given to:
  - 1. A mistake or inconsistency in the Comprehensive Plan or Zoning Map as it relates to the property which is the subject of the development application; and,
  - 2. Factual oral testimony or written statements from the parties, neighborhood plans, other persons and other governmental agencies relevant to the existing conditions or factors in subsections (A) or (B)(1) above. (ORD 1568)
- C. In all cases, the decision shall include a statement in a form which includes findings as to whether or not the application meets the approval criteria of the applicable Community Development Code sections. (ORD. 1474)
- D. The approval authority may:
  - 1. Adopt the findings and conclusions contained in the staff report;
  - 2. Adopt the findings and conclusions of a lower approval authority;
  - 3. Adopt its own findings and conclusions;
  - 4. Adopt the findings and conclusions submitted by any party; or,
  - 5. Adopt the findings and conclusions from another source, either with or without modifications, having made a tentative decision and having directed the staff to prepare findings for review and to provide an opportunity for all parties to comment upon them.
- E. The decision may be for denial, approval, or approval with conditions, pursuant to Section 99.160 and 99.170, where such conditions are necessary to satisfy the applicable standards of any provision of this code or other applicable implementing ordinance: (ORD. 1474, ORD 1568)
- F. The final decision shall be a decision which is in writing and which has been:
  - 1. Formally adopted by the decision-making authority and filed with the Director within 14 working days of the formal adoption of the

decision; or,

2. Signed by the Director in the case of a decision by the Director and filed as a final decision within 14 working days of the signed decision; or,
3. Formally adopted by the Council and signed by the Mayor or the president of the Council in the case of an appeal.

## **99.120 AMENDMENTS**

This section explains how amendments to projects subject to the quasi-judicial decision making process are processed. (ORD 1568)

- A. An amendment application shall be required if the Planning Director determines that the proposed revisions will change the project by a factor greater than ten percent in a quantifiable manner (e.g. number of proposed lots, square footage of proposed buildings, number of parking spaces, relocation of building footprints). Non-quantifiable changes shall also require an amendment if they result in significant differences between approved project and the revised project, or if the changes call into question compliance with a relevant approval criterion. (ORD 1568)
- B. Amendments shall be reviewed by the initial decision-making authority. For example, if the Planning Commission heard the application initially, then it would hear the amendment application.
- C. Rather than provide full submittal, the Planning Director shall identify the parameters of the submittal appropriate to the amendment and applicable approval criteria. For example, if the applicant only requests to re-design the architecture of a building, but not increase square footage or building mass, then the submittal of a site plan, architectural elevations, material/color board, and narrative specific to the architecture and relevant design review approval criteria would be appropriate. Conversely, no new landscaping, grading plans, etc. would be necessary since no changes are proposed for those items. The submittal should be comprehensive and sufficient to provide the decision-making authority with all necessary

information while not being redundant and requiring information which is already part of the record of the original application.

- D. If the proposed revisions will change the project by a factor greater than 25 percent in a quantifiable manner, or if the land area upon which the project is proposed changes, then a new application shall be required.  
(ORD 1568)

**99.125 STAGED OR PHASED DEVELOPMENT**

An applicant may elect to develop a proposed project in phases. The timing of each development phase shall be set forth in the application and subject to approval by the appropriate approval authority. Each phase shall meet all applicable development standards individually (e.g., access, parking, landscaping, utilities, etc.) without having to rely upon subsequent phases. Each phase shall also install all necessary improvements to serve the development within that phase. (ORD. 1474. ORD 1568)

**99.130 NOTICE OF THE FINAL DECISION**

- A. The final decision by the Planning Director shall be filed in the records of the Department of Planning and Development after the decision is signed by the Planning Director, and notice thereof, shall be mailed to the applicant, all parties to the matter as established under Section 99.140, and those persons who requested copies of such notice.  
(ORD. 1474, ORD 1568)
- B. The final decision by the Planning Commission, Historic Review Board, or City Council shall be filed in the records of the Department of Planning and Development, and notice thereof shall be mailed to the applicant, all parties to the matter as established under Section 99.140, and those people requesting copies of such notice. (ORD 1568)
- C. Notice of a final decision shall conform to applicable provisions of the Oregon Revised Statutes.
- D. The appeal period is as provided in Section 99.150.

**99.140****ESTABLISH STANDING TO APPEAL OR REVIEW**

- A. Any person or recognized neighborhood association with "standing" may pursue an appeal or seek review of any land development decision.  
Standing is established in the following way:
- B. The person or recognized neighborhood association appeared before an approval authority other than the Director, either orally or in writing, and provided their name and address; signed the sign-in sheet or testimony form provided at the hearing; or submitted comments to the Director, in writing, and provided their name and address to the Director regarding a decision. Neighborhood association standing can only be established by a person identifying, either in testimony or in writing, that they represent a specific neighborhood association. (ORD. 1474)

**99.160****A DECISION BY THE DIRECTOR**

- A. Pursuant to Section 99.060(A) of this chapter, the Director is authorized to make certain decisions, and no hearing shall be held except where the Director has an interest in the outcome of the decision, due to some past or present involvement with the applicant, other interested persons or in the property or surrounding property, and cannot render an impartial decision.  
In such cases, the application shall be subject to the jurisdiction of the Planning Commission. (ORD 1568)
- B. A decision made by the Director shall be made in accordance with the provisions of Section 99.110 of this chapter, and a record shall be made which shall include:
  - 1. A copy of the application and all supporting information, plans, exhibits, graphics, etc.;
  - 2. All correspondence relating to the application;
  - 3. All information considered by the Director in making the decision;
  - 4. The staff report of the Director prepared under Section 99.040(A)(3)(b);

5. A list of the conditions, if any are attached to the approval of the application;
  6. A copy of the notice which was given pursuant to Section 99.080(A), and accompanying affidavits, and a list of all persons who were given mailed notice; and,
  7. A signed statement by the Director stating the nature of any past or present involvement with the applicant, other interested persons or the property if the Director makes a decision, and if there could reasonably be expected to be a challenge to the fairness of the decision.
- C. A decision made by the Director shall be final as provided by Section 99.230 unless:
1. A party to the action files a written appeal with the Director within 14 days of the final decision pursuant to Section 99.240.
  2. Not less than two members of the Commission or two members of the Council order a review within 14 days of the final decision pursuant to Section 99.240; or,
- D. No Director's decision may modify the request from that set out in the notice given under Section 99.080 and 99.090, unless new notice be given except that conditions may be attached to the approval.

**99.170**

**AN ADMINISTRATIVE ACTION - HEARING PROCEDURE**

- A. Unless otherwise provided by the Rules of Procedure adopted by the Planning Commission, City Council, and Historic Review Board shall conduct a public hearing on all matters over the board , commission, or council has original jurisdiction pursuant to Section 99.060 of this chapter; and: (ORD 1568)
1. Determine who qualifies as a party.
  2. Regulate the course, sequence, and decorum of the hearing. The

sequence of the hearing shall also include the right to establish procedures for continuances of hearings.

3. Dispose of procedural requirements or similar matters.
4. Rule on offers of proof and relevancy of evidence and testimony.
5. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, cross examination of witnesses and rebuttal testimony.
6. Take such other action appropriate for conduct commensurate with the nature of the hearing.
7. Approve or deny applications or approve with conditions pursuant to Section 99.110 of this ordinance. (ORD 1474, ORD 1568)

B. At the commencement of the hearing, a statement shall be made to those on attendance that:

1. Lists the applicable substantive criteria (by chapter) that applies to the application before the hearing body.
2. States the testimony, arguments and evidence must be directed toward the applicable substantive criteria which the person testifying believes to apply to the decision. (ORD 1568)
3. States that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes an appeal to the State Land Use Board to Appeals based on that issue. (ORD 1568)

C. Unless otherwise provided in Rules and Procedure adopted by the Council, the following rules shall apply to the general conduct of the hearing:

1. The approval authority may ask questions at any time prior to the final decision; however, the answers shall be limited to the substance of the question and if new evidence is admitted after the close of the hearing, upon request, rebuttal shall be allowed.

2. Parties or the Director must receive approval from the approving authority to submit directly questions to other parties or witnesses or the Director;
3. A reasonable amount of time shall be given to persons to respond to questions;
4. No person shall testify without first receiving recognition from the approval authority and stating a full name and address;
5. The approval authority may require that testimony be under oath or affirmation;
6. Audience demonstrations such as applause, cheering and display of signs or other conduct disruptive of the hearing shall not be permitted. Any such conduct may be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer; and, (ORD. 1474)
7. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.

D. The Planning Commission or Historic Review Board may refer any matter for Council action on the record made before it. (ORD. 1474, ORD 1568)

E. Prior to the conclusion of the initial evidentiary public hearing on the application, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application.

The request shall be granted through one of the following means:  
(ORD 1568)

1. Continuation of the public hearing to a date, time, and place certain at least seven days from the date of the initial evidentiary public hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments or testimony. If new written evidence is submitted at the continued hearing, any person may request prior to the conclusion

of the continued hearing that the record be left open for at least seven days to submit additional written evidence, arguments, or testimony for the purpose of responding to the new written evidence.

2. Leaving the record open for at least seven days for the presentation of additional written evidence, arguments, or testimony. At the conclusion of this period, any participant may file a request for an opportunity to respond to any additional written evidence, arguments, or testimony. Such a request shall be granted with an additional seven days (at minimum) to file such a written response.

F. If requested an applicant shall be granted an additional period of at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. Any such time period granted to the applicant shall not be subject to the time limit provisions of ORS 215 regarding local government decision making on quasi-judicial applications. (ORD 1568)

G. A decision made by the Planning Commission or Historic Review Board shall be final provided by the Section 99.230 unless: (ORD 1568)

1. A Party to the action files a written appeal with the Director within 14 days of the final decision pursuant to Section 99.240.
2. Not less than two members of the Council order a review within 14 days of the final decision pursuant to Section 99.240; or,
3. It is an expedited land division application for which the provisions of ORS Chapter 197 shall apply.

(ORD 1568)

**99.180 EX PARTE CONTACTS, IMPARTIALITY, DISQUALIFICATION, AND ABSTENTION**

A. *Ex Parte* Contacts. The general public has a right to have hearing body

members free from pre-hearing or *ex parte* contacts on the matter to be heard. It is recognized that an equal public right is free access to public officials on any matter.

1. Therefore, hearing body members shall reveal any significant pre-hearing or *ex parte* contacts with regard to any matter at the commencement of the public hearing on the matter. *Ex parte* contacts are defined as meetings, conversations, or communication outside of the City hearing process between the decision-making authority (e.g., Planning Commission member) and any person concerning the substance of the application. Essentially, both sides of the issue are not fairly represented. An *ex parte* contact does not compel abstention, but if such contacts have impaired the members' impartiality or ability to vote on the matter, the member shall so state and shall abstain from voting.
2. In addition, parties who had the communication with the member have the right to rebut the substance of the communication, on the subject to which the communication relates, with the member at the commencement of the public hearing on the matter.
3. All *ex parte* contacts shall be reported on the record.
4. This section shall not apply to Director decisions made under Section 99.060(A).
5. Members of the City Council, Planning Commission, and Historic Review Board shall be governed by the relevant provisions of ORS 227 and 244 and the provisions of this section. Where inconsistencies exist, the ORS shall prevail. (ORD 1568)

B. Challenges to Impartiality

1. An affected party or a member of a hearing body may challenge the qualifications of a member of the hearing body to participate in the hearing and decision. The challenge shall state the facts relied upon by the challenger relating to a person's bias, pre-judgment,

personal interest, or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner.

2. The challenged person shall have an opportunity to respond orally to the challenge. The challenge shall be incorporated into the record of the hearing.
3. Any challenge shall require that the hearings body vote on the challenge pursuant to subsection E below. (ORD. 1474)

C. Disqualification. No member of a hearing body may participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:

1. Any of the following have a direct or substantial financial interest in the proposal: the member or member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.
2. For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.

D. Participation by Interested Officers or Employees. No officer or employee of the City who has a financial or other private interest in a proposal may participate in discussion with, or give an official opinion to, the hearing body on the proposal without first declaring for the record the nature and extent of such interest.

E. Abstention or Disqualification. Disqualification for reasons other than the member's own judgment may be ordered by a majority of the members of a hearing body present and voting. The member who is the subject of the motion for disqualification may not vote on the motion but shall be

allowed to participate in the deliberation of the hearing body on that motion. (ORD. 1474)

F. Rights of Abstaining or Disqualified Member of the Hearing Body

1. An abstaining or disqualified member of the hearing body shall be counted for purposes of forming a quorum. A member who represents a personal interest at a hearing may do so only after making full disclosure for the record of the hearing, abstention from voting on the proposal, and vacating the seat on the hearing body.
2. If all members of a hearing body abstain or are disqualified, the consequences for the application shall be as follows: (ORD 1568)
  - a. Planning Director disqualified - referred to City Council for hearing and decision.
  - b. Historic Review Board disqualified – referred to Planning Commission for hearing and decision.
  - c. City Council disqualified – referred to Planning Commission for hearing and decision.
  - d. City Council and Planning Commission both disqualified – referred to the Hearings Officer for hearing pursuant to Section 99.170 and decision.
  - e. City Council acting as Appellate hearing authority – decision of the original hearing authority becomes the final City decision.  
(ORD 1568)
3. Council members who appear as a party in another hearing process on an application, such as testifying before the Planning Commission in a case that is then appealed to City Council, shall be disqualified from Council consideration of that application.
4. Council Members of a hearing body who participate in a meeting, such as a neighborhood association or a Chamber of Commerce

meeting, etc., wherein they state their support or opposition to an application that appears before City Council, shall be disqualified from the hearing's body consideration of that application.

(ORD 1568)

- G. A member absent during the presentation of evidence in a hearing may not participate in the deliberations or decision unless the member has reviewed the evidence received. (ORD 1568)

**99.190 CONTINUATION OF THE HEARING - NOTICE**

An approval authority may continue the hearing from time to time to gather additional evidence, to consider the application fully, to comply with state statutes, or to give notice to additional persons. Unless otherwise provided by the approval authority, no additional notice need be given of the continued hearing if the matter is continued to a date certain. (ORD 1568)

**99.200 EVIDENCE**

- A. All evidence offered and not objected to may be received unless excluded by the approval authority.
- B. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conducting of their every day affairs.
- C. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.
- D. Formal rules of evidence, as used in courts of law, shall not apply. (ORD. 1474)

**99.220 RECORD OF PROCEEDINGS**

- A. A verbatim record of the proceeding shall be made by video recording, or other available means. It shall not be necessary to transcribe testimony. The minutes and other evidence of the proceedings shall be part of the record and the basis for deciding a decision on review. Inadvertent loss of a verbatim record due to technical or mechanical problems unforeseen by

the City shall not be grounds for invalidating a public hearing or decision.  
(ORD 1568)

- B. All exhibits received shall be marked so as to provide identification upon review and shall be part of the record.
- C. The official record shall include:
  - 1. All materials, pleadings, memoranda, stipulations, and motions submitted by any party to the proceeding and recorded or considered by the hearings authority as evidence.
  - 2. All materials submitted by the Director to the approval authority with respect to the application;
  - 3. The verbatim record made video recording or other available means, the minutes of the hearing, and other evidence of the proceedings before the hearings body. (ORD 1568)
  - 4. The written findings, conclusions, decision and, if any, conditions of approval of the approval authority;
  - 5. All visual displays both in paper form and in electronic form, presented as part of the proceedings: (ORD 1568)
  - 6. All correspondence relating to the application; and,
  - 7. A copy of the notice which was given as provided by Section 99.080 of this chapter, accompanying affidavits and list of persons who were sent mailed notice.
- D. The record of the proceedings for a hearing on appeal or review by the City Council shall consist of all the above items and all similar items presented during the Council proceedings. (ORD 1568)

**99.230 THE EFFECTIVE DATE OF THE DECISION - APPEAL OR REVIEW**

Any decision made under the provisions of this chapter shall become effective at 5: P.M. on the 14<sup>th</sup> day from the date of mailing the notice of the final decision, unless an appeal or review is taken pursuant to Section 99.240 of this chapter. If the 14th day falls on any legal holiday or on a Saturday or Sunday, then the

effective date and time shall be at 5:00 P.M. on the next business day. For example, if a final decision was mailed on July 1, the decision would be final at 5:00 P. M. on July 15. (ORD. 1474, ORD 1568)

**99.240 AUTHORITY TO APPEAL OR SEEK REVIEW OF A DECISION - EXHAUSTION OF ADMINISTRATIVE REMEDIES**

The Oregon Revised Statutes require that prior to filing an appeal at the State Land Use Board of Appeals (LUBA), an appellant must first utilize the appeal opportunities provided by the City. A case cannot be brought before LUBA unless an appeal or petition for review is first filed with the appropriate city review body. It is the purpose of this section to provide parties information about possible remedies prior to litigation. To that end, the filing of an appeal or petition for review is a condition precedent for further administrative or judicial review. (ORD. 1474)

- A. Any decision made by the Planning Director pursuant to Section 99.160 or the Planning Commission or Historic Review Board (except for expedited land divisions) on a development application as provided by Section 99.170, may be appealed to the City Council pursuant to Section 99.160 (C) (1) or Section 99.170 (G) (1) or may be reviewed by the City Council pursuant to Section 99.160 © (2) or Section 99.170 (G) (2). (ORD. 1474, ORD. 1568)
- B. Any decision made by the Historic Review Board, or Planning Commission under Section 99.170 may be reviews by the Council if the matter is referred under Section 99.170 (C) to the Council, upon closure of the hearing, when the case presents a policy issue which required Council deliberation and determination. (ORD 1568)
- C. Formally recognized neighborhood associations may appeal land use decisions to the appropriate bodies without cost if the Planning Director finds:

1. The Community Development Code appeal procedures are followed. (ORD 1568)
2. A member of the association must have established standing on behalf of the association. The member must have explicitly identified themselves, in writing or in testimony, as representing the association.
3. The association submits a copy of the meeting minutes and vote taken supporting the appeal.
4. The neighborhood association appeal is related to the property within the association's recognized boundaries, or an application outside the association's boundaries that shall have significant impacts upon the association's neighborhood.
5. The neighborhood association may appeal without cost on behalf of an individual or group with standing who is not represented by a recognized association if "a," "b," and "c" above are met and the neighborhood association finds the issue(s) are of City-wide concern related to the West Linn Comprehensive Plan or the West Linn CDC. (ORD. 1474, 1568)

**99.250**

**APPLICATION FOR APPEAL OR REVIEW**

- A. The application letter of appeal or review shall contain:
  1. A reference to the application sought to be appealed or reviewed;
  2. A statement as to how the petitioner qualifies as a party as provided by Section 99.140.
- B. The appeal or review application shall be accompanied by the required fee.
- C. The hearing on the appeal or review shall be *de novo*; however, all evidence presented to any lower approval authority shall be made part of the record.
- D. The appeal or review application may state grounds for appeal or review.

(ORD. 1474)

**99.260 PERSONS ENTITLED TO NOTICE ON APPEAL OR REVIEW - TYPE OF NOTICE**

Upon appeal or review, notice shall be given by the Director to all persons having standing as provided by Section 99.140 and notice as required by Section 99.080. (ORD 1568)

**99.270 CONTENTS OF NOTICE ON APPEAL OR REVIEW**

Notice given to persons entitled to mailed notice under Section 99.260 shall:

- A. Reference the application sought to be appealed or reviewed;
- B. List the date, time, and location of the hearing;
- C. State the appellant or petitioner name(s);
- D. List any grounds for appeal or review stated in the application for appeal or review, but state that the appeal or review is not limited to the stated grounds for appeal or review and that all relevant issues may be considered;
- E. State that the hearing on appeal shall be *de novo*. (ORD. 1547)
- F. Include the name of government contact and phone number.
- G. State that the application and record are available for inspection at no cost, and copies at a reasonable cost. (ORD. 1382, ORD 1474, ORD 1568)

**99.280 TYPE OF APPEAL OR REVIEW HEARING AND SCOPE OF REVIEW**

- A. All appeals and reviews shall be *de novo*.
  - 1. The record of the previous application, hearing, and decision shall be incorporated and considered as part of the appeal procedure.
  - 2. If any party requests a continuance of the appeal or review hearing, the City Council may grant a continuance to allow a further hearing or may allow only written submissions. The City Council may limit the scope of any additional testimony or argument after the initial hearing on appeal or review.

(ORD. 1474, ORD 1568)

**99.290 ACTION ON APPEAL OR REVIEW - TIME LIMIT AND AUTHORITY TO CHANGE THE DECISION**

- A. The approval authority shall act upon the appeal or review within 120 days of the application being deemed complete, unless the applicant consents to an extension of time; and, (ORD. 1474)
- B. The approval authority may affirm, reverse, or modify the decision which is the subject of the appeal; however, the decision shall be made in accordance with the provisions of Section 99.110 of this chapter; or,
- C. The approval authority may remand the matter if it is not satisfied that testimony or other evidence could not have been presented or was not available at the hearing. In deciding to remand the matter, the approval authority shall consider and make findings and conclusions regarding:
  - 1. The prejudice to parties;
  - 2. The convenience or availability of evidence at the time of the initial hearing;
  - 3. The surprise to opposing parties;
  - 4. The date notice was given to other parties as to an attempt to admit; or,
  - 5. The competency, relevancy, and materiality of the proposed testimony or other evidence.

**99.300 PARTICIPATION BY MEMBERS OF THE APPROVAL AUTHORITY IN THE DECISION AND VOTING**

- A. The provisions of Section 99.180 of this chapter apply and, in addition,
  - 1. A majority of the qualified voting members of the approval authority must vote affirmatively to affirm, affirm with conditions, or reverse or remand the decision. If no majority is in favor of any motion, then the previous decision shall be considered affirmed.(ORD. 1474, 1568)

- B. Unless a decision be deferred, in the event of a tie, the decision which is the subject of appeal or review shall stand.

**99.320 DENIAL OF THE APPLICATION - RESUBMITTAL**

An application which has been denied and which, on appeal, has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission, or the courts, may not be re-submitted for the same or a substantially similar proposal, or for the same or substantially similar action for a period of at least 12 months from the date the final decision is made denying the application.

**99.330 REVOCATION OF APPROVALS - FAILURE TO FULFILL CONDITIONS**

- A. Conditions of approval shall be fulfilled within the time limit set forth in the decision; or, by specific provisions in this code; or, if no time limit is set forth, within three years. Failure to fulfill any condition of approval within the time limitations provided will be grounds for revocation of approval after notice and an opportunity to be heard as an administrative action as provided in Section 99.330. Alternately, the Planning Director shall pursue compliance through Section 106.000. (ORD. 1474, 1568)
- B. Substantial changes, alterations, or amendments to the substance of the conditions of approval shall be processed as a new administrative action per Section 99.120.
  - 1. Substantial changes in an application made after approval, but without applicant seeking approval under Section 99.120 shall result in revocation of approval after notice and opportunity to appeal revocation order.
  - 2. Director determination of what does or does not constitute substantial changes, alterations, or amendments are appealable to the City Council by anyone having standing in the original land use decision. (ORD. 1474)

- C. The conditional approval may require the owner of the property to sign within a time certain or, if no time is designated, within a reasonable time, a contract with the City for enforcement of the conditions. The Council shall have the authority to execute such contracts on behalf of the City. If a contract is required by a conditional approval, no building permit shall be issued for the use covered by the applications until the executed contract is recorded in the real property records of the County and filed in the County records. Such contracts shall be enforceable against the signing parties, their heirs, successors, and assigns by the City by appropriate action in law or suit in equity for the benefit of public health, safety, and welfare.
- D. A performance bond or other type of surety in a form acceptable to the Director, or upon appeal or review by the appropriate approval authority, or a cash deposit from the property owners or contract purchases in such an amount as will assure compliance with the conditions imposed pursuant to this section may be required. Such bond, surety, or deposit shall be posted prior to the issuance of a building permit for the use covered by the application.
- E. The hearings authority may, after a hearing conducted pursuant to this chapter, modify or revoke any approval granted pursuant to this chapter, for any of the following reasons:
1. A material misrepresentation or mistake of fact made by the applicant in the application or in testimony and evidence submitted, whether such misrepresentation be intentional or unintentional; or,
  2. A failure to comply with the terms and conditions of approval; or,
  3. A failure to use the premises in accordance with the terms of the approval; or,
  4. A material misrepresentation or mistake of fact or policy by City in

the written or oral report regarding the matter whether such misrepresentation be intentional or unintentional. (ORD 1568)

- F. In the event that a revocation hearing is deemed appropriate, per CDC 99.330(A), the hearing shall be conducted by the decision-making authority that granted the final city approval. The Planning Director or the approval authority with jurisdiction may initiate revocation proceedings. The Planning Director's decisions made without a public hearing, the Planning Commission shall hold a public hearing on the proposed revocation. (ORD. 1474, ORD 1568)

(AMENDED PER ORD. 1510; 11/04; ORD. 1545 2/07; ORD. 1547 2/07; ORD 1565 4/08; ORD 1568 5/08)

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## ADMINISTRATIVE PROCEDURES

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**ADMINISTRATIVE PROCEDURES**

**100.000 PROCEDURES FOR ADOPTION OR AMENDMENT OF SUPPORTING PLANS**

**100.010 DEFINITION**

For the purposes of this chapter, “supporting plan” means any public facilities system or master plan or program that is a supporting document to the Comprehensive Plan. Supporting plans include, but are not limited to, any master parks plan, public facilities plan, capital improvement program, water system plan, drainage master plan, and transportation funding program.

**100.020 SCOPE**

This chapter establishes procedures for amendment or adoption of supporting plans.

**100.030 INITIATION OF PROCESS**

The procedure for adopting or amending supporting plans may be initiated by the City Council, the Planning Commission, or the Planning Director.

**100.050 PROCESS**

The Planning Commission shall hold at least one public hearing and shall make a recommendation to the City Council. The City Council shall hold at least one public hearing before adopting or amending any supporting plan. The City Council shall adopt any amendments or new supporting plan by resolution, but may deny a requested amendment or supporting plan by motion.

**100.070 NOTICE**

Notice shall be given in a newspaper of general circulation in the City at least 10 days prior to the initial hearing of the Planning Commission and at least 10 days prior to the initial hearing of the City Council.

**100.090 ADDITIONAL PROCEDURES**

The procedures set forth in CDC 98.090, 98.110, 98.120, 98.130, and 98.150 shall apply.

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**103.000 FACT FINDING**

**103.010 PURPOSE**

The purpose of this chapter is to establish procedures for finding the facts necessary to make a non-discretionary determination.

**103.030 APPLICATION**

An application for a determination may be filed with the Planning Director by a property owner, purchaser of property, lessee, authorized agent, or the Council.

**103.040 FACT FINDING BODY**

The Planning Commission shall sit as a fact finding body on the following:

- A. A determination of non-conforming use status under Section 65.050(B).
- B. A determination of non-conforming structures status under Section 66.030(B).
- C. A determination of a non-conforming use of land status under Section 67.030(B).
- D. A determination of lot of record status under Section 68.030(B).

**103.050 NOTICE - CONTENTS OF NOTICE - MECHANICS OF NOTICE**

- A. Notice shall be as provided by Section 99.080(B).
- B. The contents of the notice shall be as provided by Section 99.090(1) through (5).
- C. The mechanics of giving notice shall be as provided in Section 99.100.

**103.060 THE HEARING**

- A. The hearing shall be limited to ascertaining the relevant facts required to make a determination.
- B. The hearing shall be conducted in the manner set forth in Section 99.170(A) and (C).

**103.070 THE DETERMINATION - VOTING - RECORD - EFFECTIVE DATE - NOTICE**

- A. The determination shall include:
  - 1. A statement of the applicable standard;
  - 2. A statement of the facts found to be relevant and true;
  - 3. An analysis relating the facts to the standards; and
  - 4. A determination.
- B. The fact finding body shall be impartial and each member shall act in

accordance with the provisions of Section 99.110.

- C. An affirmative vote of a majority of the qualified voting members is required for a determination.
- D. The record shall be as provided by Section 99.220.
- E. The effective date of the determination shall be as provided by Section 99.230.
- F. Notice of the final determination shall be given in the manner set forth in Section 99.130.

**103.080 PARTY STATUS STANDING - PETITION FOR REVIEW - NOTICE**

- A. Any person shall be considered a party and thus have standing if the requirements of Section 99.140 are satisfied.
- B. Any party to the decision may file a petition for review provided:
  - 1. The notice of review is filed within 14 days of mailing the notice of final determination. The time computation shall be as provided by Section 99.150; and
  - 2. The notice of review is prepared and submitted in accordance with the provisions of Section 99.250.
- C. Notice of the hearing on the petition of review shall be given in the manner set forth in Section 103.050.

**103.090 TYPE OF REVIEW - ACTION - VOTING - EFFECTIVE DATE**

- A. Review by the Council shall be as provided by Section 99.280(B).
- B. Action on the petition shall be as provided by Section 99.290.
- C. Voting shall be as provided in Section 99.300.
- D. The final order or final determination shall become effective as provided in Section 99.310.

**103.100 REVOCATION OF APPROVALS**

A fact finding body may revoke its final determination upon finding any of the factors set forth in Section 99.330.

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**104.000      **COMPREHENSIVE PLAN****

**104.010      **ADOPTED****

The West Linn Comprehensive Plan composed of goals, objectives, policies, standards, implementation strategies, and Comprehensive Plan Land Use maps are hereby adopted as the West Linn Comprehensive Plan as required by ORS 197.010 and ORS 197.175. The text and map of the West Linn Comprehensive Plan are attached hereto as Exhibit "A" and incorporated herein by reference.

**104.020      **LAND USE POLICY****

From the effective date of the ordinance codified in this chapter, the West Linn Comprehensive Plan shall serve as the land use policy for the City, and shall govern the exercise of the planning and zoning responsibilities of the City thereafter.

**104.030      **EXHIBIT "B" ADOPTED BY REFERENCE****

The West Linn Comprehensive Plan is adopted and based upon the findings of fact, inventory and analysis, data base and evaluation of fact, inventory and analysis, data base and evaluation contained in the text and maps contained in the West Linn Comprehensive Plan, and in the planning background reports of the West Linn comprehensive planning program set forth in Exhibit "C" of the West Linn Comprehensive Plan, which are attached hereto as Exhibit "B" and adopted herein by reference. The information contained and incorporated herein as Exhibit "B" are adopted only as additional justification for the adoption of the West Linn Comprehensive Plan set forth in Exhibit "A," and shall not govern the exercise of the planning and zoning responsibilities of the City.

**104.040      **COPIES FILED****

Certified copies of the West Linn Comprehensive Plan shall be filed with the City Recorder, Clackamas County, the Metropolitan Service District, and the Land Conservation and Development Commission of the state of Oregon.



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**105.000 AMENDMENTS TO THE CODE AND MAP**

**105.010 PURPOSE**

The purpose of this chapter is to set forth the standards and procedures for legislative amendments to this Code and to the map and for the quasi-judicial changes to the map as provided by the Code chapters setting forth the procedures and by the Comprehensive Plan. Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes or to address changes in the law.

**105.030 LEGISLATIVE AMENDMENTS TO THIS CODE AND MAP**

Legislative amendments to this Code and to the map shall be in accordance with the procedures and standards set forth in Chapter 98 of this Code.

**105.040 QUASI-JUDICIAL AMENDMENTS AND PROCEDURES**

Quasi-judicial amendments to this Code and to the map shall be in accordance with the procedures set forth in this Code and the following:

- A. The Planning Commission shall decide zone change applications which do not involve Comprehensive Plan Map amendments as provided by Section 99.060(B). A petition for review by the Council may be filed as provided by Section 99.280(B).
- B. The Planning Commission shall make a recommendation to the Council on an application for a Comprehensive Plan Map amendment. The Council shall decide the application on the record as provided by Section 99.280(C).
- C. The Planning Commission shall make a recommendation to the Council on a zone change application which also involves a concurrent application for a Comprehensive Plan Map amendment. The Council shall decide the applications on the record as provided by Section 99.280(C).
- D. A pre-requisite to the filing of an application for development proposals that include greater than 10 multi-family units or commercial/industrial buildings greater than 1500 square feet in size, a 4-lot or more planned unit development, a 10-lot or greater subdivision, or a zone change that

requires a Comprehensive Plan amendment, is a meeting with the respective City recognized neighborhood association, per CDC Section 99.038, at which time the applicant will present their proposal and receive comments. (ORD. 1401)

**105.050 QUASI-JUDICIAL AMENDMENTS AND STANDARDS FOR MAKING THE DECISION**

A decision to approve, approve with conditions, or to deny an application for a quasi-judicial amendment shall be based on all of the following standards:

- A. The standards set forth in Section 99.110(A); which provide that the decision shall be based on consideration of the following factors:
  - 1. The applicable Comprehensive Plan policies as identified in subsection "3" of this section and map designation.
  - 2. The applicable standards of any provision of this Code or other applicable implementing ordinance.
- B. The standards set forth in Section 99.110(B) which provide that in making the decision, consideration may also be given to the following:
  - 1. Proof of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Zoning Map as it relates to the property which is the subject of the development application.
  - 2. Factual oral testimony or written statements from the parties, other persons and other governmental agencies relevant to the existing conditions, other applicable standards and criteria, possible negative or positive attributes of the proposal or factors in subsection "A" or "B-1" above.
- C. The Comprehensive Plan, Plan and Ordinance Revision Process, and Specific Policy No. 4, which provides that the decision shall be based on consideration of the following criteria:
  - 1. Conformance with the Comprehensive Plan policies and criteria.
  - 2. There is a public need for the change or that the change can be

demonstrated to be in the interest of the present and future community.

3. The changes will not adversely affect the health, safety and welfare of the community.

#### D. Transportation Planning Rule Compliance

1. Review of Applications for Effect on Transportation Facilities. When a development application, whether initiated by the City or by a private interest, includes a proposed comprehensive plan amendment zone change or land use regulation change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – “TPR”). “Significant” means the proposal would:
  - a. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
  - b. Change standards implementing a functional classification system; or
  - c. As measured at the end of the planning period identified in the adopted transportation system plan:
    - (1). Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
    - (2). Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or
    - (3). Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

2. Amendments that affect Transportation Facilities. Amendments to the comprehensive plan and land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:
  - a. Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
  - b. Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of Section -0060 of the TPR.
  - c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.
  - d. Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
3. Traffic Impact Analysis. A Traffic Impact Analysis shall be submitted with a plan amendment or land use district change application.

**105.060      CONDITION OF APPROVAL**

A quasi-judicial decision may be for denial, approval, or approval with conditions as provided by Section 99.110(E).

**105.070      RECORD OF AMENDMENTS**

The Planning Director shall maintain a record of amendments to the text and map of this Code in a format convenient for the use of the public and in accordance with Section 98.150 of this Code.

(AMENDED PER ORD. 1401; 5/97, ORD. 1584; 12/08)

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**106.000 ENFORCEMENT**

**106.010 PROVISIONS OF THIS CODE DECLARED TO BE  
MINIMUM REQUIREMENTS**

In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, adopted for the protection of the public health, safety, and general welfare. Wherever the requirements of this Code are at variance with other provisions of this Code, or with the requirements of any other adopted City rules, regulations, or ordinances, the most restrictive or that imposing the higher standards, shall govern. (ORD. 1370)

**106.020 VIOLATION OF CODE PROHIBITED**

No person shall erect, construct, alter, maintain or use any building or structure, or shall use or transfer any land in violation of this zoning code or any amendment thereto.

**106.030 COMPLAINTS REGARDING VIOLATIONS**

Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file a signed, written complaint. Such complaints stating fully the causes and basis thereof, shall be filed with the Planning Director or his designee. He shall record properly such complaints, investigate and take action thereon as provided by this Code.

**106.040 INSPECTION AND RIGHT OF ENTRY**

Whenever the Planning Director has reasonable cause to suspect a violation of any provision of this chapter exists; or when necessary to investigate an application for, or revocation of, any approval under any of the procedures described in this Code, the Planning Director may enter on any site or into any structure for the purposes of investigation, provided that no premises shall be entered without first attempting to obtain the consent of the owner or person in control of the premises if other than the owner. If consent cannot be obtained, the Planning Director shall secure a search warrant from the City's Municipal Court before further attempts to

gain entry, and shall have recourse to every other remedy provided by law to secure entry.

**106.045 CONSENT ORDER**

- A. If the Director determines that a violation of this Code has been committed, the Director may negotiate a consent order with the alleged violator. Any consent order issued under this section must result in abatement of the violation. The consent order shall contain conditions to ensure full abatement of the violation and full compliance with all provisions of this Code. The consent order may provide for the payment of civil penalties and payment for the City's enforcement, inspection, oversight, and administrative costs, including attorney fees. Any consent order under this section must result in an abatement of the violation according to a specified timetable, not to exceed one year.
- B. All consent orders must be signed by the Director and by the alleged violator. No consent order may be issued without the written permission of all owners of property where work required by the consent order will be conducted.
- C. No permit or approval otherwise required by this Code shall be required of any action required by a consent order. The consent order shall act as the necessary land use approval for the action required by the consent order.
- D. Notice of the consent order shall be provided to all owners of property within 500 feet of the place where the violation occurred and to all owners of property within 500 feet of the location of any remedial work to be taken under the consent order. Notice of the consent order shall also be published in a newspaper of general circulation in the City. Any person who is not a party to the consent order may appeal the order to the City Council under the provisions of Chapter 99.
- E. If a consent order is issued and fully complied with, the City shall not take any abatement action under Section 106.050.

- F. The Director shall have discretion to determine whether to attempt to negotiate a consent order. The Director may choose to proceed with abatement under Section 106.050 without attempting to negotiate a consent order or at any time prior to issuance of a consent order. The City may proceed with abatement under Section 106.050 if a violator does not comply with a consent order. No city land use application or permit shall be required for any work by the City to abate in response to a violation pursuant to Section 106.050 of this Code or West Linn Municipal Code Section 5.510.
- (ORD. 1484)

**106.050 ABATEMENT OF VIOLATIONS**

- A. Definitions:
1. **Intentional** means acting with a conscious objective to cause the result achieved or to engage in the conduct.
  2. **Knowing** means acting with an awareness of the action committed.
- B. All violations of this Code, any development contrary to a permit approval, and any failure to comply with approval conditions arising out of this Code, are Class A civil infractions and shall be enforced pursuant to Sections 1.205 to 1.260 of the West Linn Municipal Code:
1. **Knowing or intentional violation:** The maximum forfeiture for a knowing or intentional violation shall be \$1,000.
  2. **Other violations:** The maximum forfeiture for all violations other than knowing or intentional violations shall be the standard forfeiture for Class A violations set out in West Linn Municipal Code Section 1.255.
  3. **Increased maximum penalty for subsequent violations:** The maximum forfeiture otherwise applicable shall be increased by 50 percent over the previous violation if a judgment of violation of this Code has been issued against the violator within five years prior to the violation.

- C. The commission, continuance, or maintenance of a violation on more than one day shall constitute a separate infraction for each and every day during any portion of which the violation is committed, continued, or maintained.
- D. All violations of this Code, any development contrary to a permit approval, and any failure to comply with approval conditions imposed under this Code are public nuisances and may be abated pursuant to Sections 5.400 to 5.530 of the West Linn Municipal Code.
- E. The City's remedies are cumulative. The City may enforce any violations under the civil infraction procedure, under the nuisance procedure, or under both procedures, either simultaneously or concurrently. The City's remedies listed in this section are in addition to any other remedy or claim the City may have against the violator.

(AMENDED PER ORD. 1484; 5/02)