

**PROPOSED AMENDMENT
OF THE
COMMUNITY DEVELOPMENT CODE**

**STRIKEOUT VERSION BASED ON THE
PREVIOUS MEETING**

(THESE CHANGES ARE INCORPORATED IN THE 9/27/2012 DRAFT)

DISCUSSION DRAFT – PART II

September 26, 2012

Notes:	
Plain text =	existing regulation
Strike through =	proposed deletion to existing regulations
Underline =	proposed addition to existing regulations
<i>Italic</i> =	staff comment
... =	unaffected text omitted

The following contains several unrelated proposed amendments to the Community Development Code (CDC). The topics being addressed are as follows:

Proposed amendment	Page
<i>Public notice requirements</i>	
<i>Sidewalk use</i>	
<i>Number of dwellings along cul-de-sacs</i>	
<i>Fee in lieu of required improvements</i>	
<i>Projecting and sport field signs</i>	
<i>Docketing</i>	
<i>Private sports courts and active recreation areas</i>	1
<i>Outdoor lighting</i>	6
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<i>Temporary uses</i>	
<i>Storm water control for single family and duplex units</i>	

Private Sports Courts and Active Recreation Areas

(Overview: Residential yards provide a safe and convenient play area that is important to families and the community. However, in recent years, the City has heard from residents alleging that their neighbor's recreational activity (e.g., basketball and batting cages) creates noise that is distracting inside their residence well after dark and that the associated lighting illuminates their bedrooms; results in dozens of balls entering their yard, some of which damage landscaping; and generates excessive storm water runoff. They assert that this activity significantly diminishes their quality of life, poses safety risks, impacts their ability to conduct a home occupation, and may reduce their property's value.

The proposed draft amendments are intended to avoid or reduce the potential adverse impacts of active recreational activity on the neighbor's quality of life without unduly impinging upon reasonable use of residential lots.)

Residential Districts' Use Standards Chapter 17 (New)

(Staff comment: The following proposed new chapter would add regulations dealing with sport courts, residential outdoor lighting and, as proposed, consolidate existing standards that are only applicable to residential uses. These include home occupations (from Chapter 37), and manufactured homes (from Chapter 36), accessory dwelling units (from Chapter 34), and side yard transitions (from Chapter 43).

Sections:

17.010 PURPOSES

17.020 APPLICABILITY

17.030 STANDARDS

17.050 (Submittal requirements. Administration will be under Chapter 99)

17.010 PURPOSES

The purposes of this chapter are as follows:

- A. To provide for active recreational use of residential yards and common areas in a manner that does not significantly diminish the livability of adjoining residences or unreasonably interfere with the use of adjacent property.
- B. To regulate outdoor sports courts and activity areas as warranted to protect the safety of neighbors and people on adjacent streets and sidewalks and avoid damage to adjacent property from sports equipment, projectiles, and other hazards.

Deleted: balls and other

C. To regulate outdoor lighting in order to avoid excessive light trespass (see definition on page 10) and glare that could diminish the livability of adjacent properties, negatively impact adjacent land uses, or pose safety risks to others.

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D. To protect public health, safety and welfare.

(Staff comment: If other regulations are moved to this chapter as proposed, additional purpose statements would be added. Also, new subsections would be added to the affected zoning districts that refer to these regulations.)

17.020 APPLICABILITY

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¶

This chapter applies to the following uses on residential lots, sites, and common areas in the R-40, R-20, R-15, R-10, R-7, R-5, R-4.5, R-3, and R-2.1 districts, the Willamette Neighborhood Mixed Use Transitional Zone, and to residential development and uses in other districts:

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- A. All new and existing outdoor recreational facilities (see definition on page 11);
- B. All new, existing and replacement outdoor lighting;
- C. Home occupations (to be moved from Chapter 37);
- D. Manufactured homes (to be moved from Chapter 36);
- E. Accessory dwelling units (to be moved from Chapter 34); and
- F. Side yard transitions. (to be moved from Chapter 43)

17.030 STANDARDS

A. Outdoor recreational facilities. Private outdoor recreational facilities (see definition on page 11) are allowed on residential lots, sites, and common areas subject to the following:

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1. Location.

a. Portable and permanent basketball backboards, lacrosse and soccer goals, batting cages and other outdoor recreational equipment is allowed on driveways.

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(Staff comment: Portable basketball hoops are common on driveways and staff has not received complaints about them in recent years).

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b. Except for driveways provided for in Subsection (A)(1)(a) above, outdoor recreational facilities are only allowed in:

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i. side yards 20 feet or more in width, unless they abut a street or a non residential lot or tract; and

ii. in rear yards (i.e., the required yard and any additional area behind the dwelling).

~~(moved to 4),~~
~~(moved),~~

2. Orientation and fencing. To the extent feasible, the backside of outdoor recreation facilities involving projectiles (e.g., basketball backboards) shall be oriented away from site boundaries shared with a residential use or toward existing barriers on site (e.g., a structure or tall shrubs) such that balls/projectiles will fall on site. If that is not possible, fencing/netting up to 12 feet in height as needed to keep projectiles on site, shall be installed along the perimeter of the outdoor recreation facility, consistent with subsections 44.020(A) and (B), where:

- a. An outdoor recreation facility is located within 15 feet of a side or rear yard property line shared with a residential lot or street; or
- b. A portion of a tennis court lies within 25 feet of a property line that is shared with a residential lot or street.

The fencing required above shall not be use at perimeter site fencing

~~(Combined with fencing above)~~

(Staff comment: As drafted, fencing is not required for equipment on driveways in front yards. See the proposed amendments to the fence regulations on page 11).

(Staff comment: The regulations staff reviewed included fences height limits of 8 to 12 feet).

3. Screening. Fencing and walls required under Subsection (A)(2) in excess of 6 feet in height above finished grade shall be screened with landscaping where they would be visible from abutting rights-of-way or residences on adjoining lots, consistent with CDC 54.020(E). (Staff comment: See proposed language on page 13 of this draft).

54 Setbacks. Outdoor recreational facilities shall be set back from property lines a minimum 15 feet, except as follows: (moved and reordered)

- a. Outdoor recreational facilities shall be set back from property lines a minimum of three feet when:
 - i. outdoor recreational facilities are located on driveways per Subsection 17.030 (A)(1)(a),
 - ii. the area accommodating the outdoor recreational facility adjoins a street or a nonresidential use, not including health and hospice care facilities (e.g., a stormwater pond, park, designated open space, school or commercial use);

~~Deleted: 2. Setbacks.~~

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~~a. Outdoor recreational facilities shall be setback from property lines a minimum of three feet when: ¶~~

~~i. outdoor recreational facilities are located on driveways per Subsection 17.030 (A) (1)(a).¶~~

~~ii. the area accommodating the outdoor recreational facility adjoins a street or a nonresidential use, not including health and hospice care facilities (e.g., a stormwater pond, park, designated open space, school or commercial use); ¶~~

~~iii. where the outdoor recreational facility is no less than 50 feet from the closest dwelling/potential residential building area, and ¶~~

~~iv. where the elevation difference between an outdoor recreational facility and the abutting property is 12 feet or more (e.g., due to a retaining wall).¶~~

~~b. The baselines of tennis courts shall be at least 25 feet from the closest, generally parallel property line and sidelines shall be at least 15 feet from the property line, unless Subsection (A)(2)(a) applies. ¶~~

~~Deleted: c. All uses allowed under Subsection A which are not addressed by subsections A(2)(a) or (b) shall be set back at least 15 feet from side and rear property lines.~~

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~~Deleted: 3. OrientationTo the extent feasible, outdoor recreation facilities, including, but limited to, basketball backboards, tennis court baselines, and all other facilities for sports involving projectiles shall be oriented to the interior (...)~~

~~Deleted: 4. Fencing/nettingseparate from the exterior property line fencing, an interior Fencing or netting 8 to 10 feet in height is required, consistent with (...)~~

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~~Deleted: Option: The fencing required above shall be black vinyl-coated chain link unless the applicant demonstrates that another material is aesthetically equal or (...)~~

~~Deleted: and in several instances they require black chain link fencing~~

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- iii. where the outdoor recreational facility is no less than 50 feet from the closest dwelling/potential residential building area, and
- iv. where the elevation difference between a outdoor recreational facility and the abutting property is 12 feet or more (e. g., due to a retaining wall).

b. The baselines of tennis courts shall be at least 25 feet from the closest, generally parallel property line and sidelines shall be at least 15 feet from the property line, unless Subsection (A)(2)(a) applies.

Setbacks shall be measured from the applicable boundary line of the court, when one exists or, when a court is not delineated, from the base of recreational equipment. (new)

5. Lighting. See lighting requirements in Subsection 17.030(B). (Staff comment: See proposed language on page 6).

6. Use of outdoor recreation facilities.

- a. Outdoor recreation facilities allowed in Subsection (A) shall not be used for active recreation after 10:00 p.m.
- b. The use of outdoor recreation facilities allowed in Subsection A shall be limited to the occupants or guests of the residential dwelling on the same lot or site, not including training by an athletic organization or organized sports team or the commercial instruction of players other than the residents of the subject property.

7. Nonconforming outdoor recreation facilities.

a. All portable outdoor recreation facilities in use prior to the effective date of this chapter that do not comply with the requirements of this Subsection (A) shall be brought into compliance with subsections (A)(1), (2), (3), (4) and (6) upon the effective date of this chapter.

b. Permanent outdoor recreation facilities in use prior to the effective date of this chapter shall comply with subsections (A)(5) and (6) upon the effective date of this chapter. (new)

- Alternative approach: Allow someone who perceived an activity was a nuisance to pay a fee and ask the Planning Director to declare the activity a nuisance. The decision would be appealable to the Council. If the use was declared a nuisance the nuisance creator could continue the activity if they came to some agreement with all of their neighbors about how to alleviate the nuisance.

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¶ Option: Outdoor recreation facilities allowed in Subsection A shall not be lighted, except for incidental lighting from a light fixture in another location, [unless the proponent demonstrates that the lighting fixtures would not be directly visible from any abutting residential lot or create light trespass].

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Other ideas: ¶

B. Outdoor lighting. The following standards are in addition to any applicable requirements of Chapter 55, Design Review. In the event of a conflict with Chapter 55, the more restrictive provision shall apply.

(Staff comment: Outdoor lighting can illuminate off site areas and adversely impact occupants of adjacent residences. This situation has been the source of a few complaints in West Linn. Consequently the City Council asked staff and Planning Commission to address the issue. Staff reviewed the regulations of 32 jurisdictions in Oregon and Washington, many similar in demographics to West Linn, and found that only a few have residential lighting regulations. These are Wilsonville, Oregon City, Troutdale, and Corvallis, Oregon; and Redmond and Mercer Island, Washington. In addition, staff reviewed several examples from outside of the region, including two nationally recognized examples - a recent lighting ordinance from Homer Glen, Illinois and the Joint IDA – IES Model Lighting Ordinance (Dark Sky). The following preliminary discussion draft reflects approaches used in these regulations.)

1. Exemptions. The following are exempt from the requirements of this Subsection B:

- a. Luminaires producing 2200 lumens or less (e.g., a 150 watt incandescent bulb) mounted on a structure at its main entry, rear entry, and beside garage doors;
- b. Temporary lighting used for holiday decoration or temporary events approved by the City, such as block parties, fairs, and civic events;
- c. Security lighting activated by motion sensors that remains on for no more than 15 minutes following activation, provided that it does not routinely come on at intervals of less than once per hour due to regular traffic or activity; (based on the Scottsdale code)
- d. Lights not visible from an adjoining residential lots/sites or public right-of-way;
- e. Landscape lighting of less than 800 lumens (e.g., approximately a 55 watt incandescent bulb);
- f. Bollard lighting with opaque caps and an opaque housing around the lamp and other lighting within public access easements for the purpose of lighting the travel way, sidewalks, paths, steps and related facilities.
- g. Open flame gas lamps; (Joint IDA – IES Model Ordinance)

Deleted: <#>Establish a minimum lot size for sport courts. (Staff comment: This does not seem to be needed if setbacks are met). ¶

Deleted: <#>Control stormwater generated by sports courts. (Staff comment: Currently Section 33.020 exempts one and two family dwellings from stormwater requirements, so addressing stormwater would entail modification of Chapter 33 and, most likely, establishing impervious surface limits for all residential uses. This is beyond the scope of the current amendments). ¶

h. Internal lighting for signs approved under Chapter 52; (Joint IDA – IES Model Ordinance)

i. Underwater lighting in swimming pools and other water features; (Joint IDA – IES Model Ordinance).

j. Portable lights temporarily used during permitted construction or repair, for performances, or for television production;

k. Lighting used in emergency events such as, but not limited to, police and firefighting activities and declared emergencies;

l. Lighting required by the Building Code.

2. Prohibited outdoor lighting. The following types of lighting are prohibited on properties subject to this chapter:

a. Flickering, flashing, blinking, scrolling or rotating lights, animation, and lights that change intensity, not including motion sensor activated lighting or holiday decorations; and

b. Neon lights.

3. Nonconforming lighting. (this will be moved following the standards in #4)

a. All outdoor light fixtures lawfully installed prior to the effective date of this chapter that do not conform to the provisions of this chapter are considered nonconforming. Such lights may continue to be operated provided replacement light bulbs do not exceed 2200 lumens (approximately a 150 watt incandescent bulb) unless the fixtures conform to Subsection (4)(a) and the hours of operation conform to Subsection (4)(b).

(Option: Subsections b-d below would require modification/removal (amortization) of lawfully established lights that do not comply with the requirements of this chapter over a specified time period. They are adapted from the Homer Glen, Illinois lighting ordinance.)

b. If the height or location of a nonconforming light fixture or supporting structure is changed, the nonconforming light/structure must be brought into compliance with subsections (4)(b) and (4)(d) within 30 days.

Deleted: <#>Lighting within rights-of-ways and public access easements for the purpose of lighting the travel way, sidewalks, paths, steps and related facilities (e.g., transit stops); ¶

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Deleted: ¶ <#>Lighting of public monuments and statuaries using a narrow cone beam light that does not extend more than 1-foot beyond the illuminated object; and ¶

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c. Nonconforming light fixtures and supporting structures shall achieve full compliance with this chapter or be removed within 30 days following the occurrence of any of the following:

- i. A cumulative total of 50% or more of the light fixtures or supporting structures on the lot or site are changed, relocated or replaced after the effective date of this chapter (excluding routine bulb replacement); or
- ii. There are cumulative additions of 50 percent or more to the principal structure on the lot, parking spaces, or the number of dwelling units in a multifamily development.

Deleted: seating capacity.

d. All nonconforming lights and supporting structures shall achieve full compliance with this chapter or be removed on or before January 1, 2023. (or any time period of several years that allows amortization of the light fixture and supporting structure).

4. Standards. The following standards apply to outdoor lighting on property subject to this chapter.

(Reordered as d) a. Prevention of off-site illumination. All lighting subject to this chapter shall be designed, installed, and maintained to prevent light trespass and glare as follows:

- i. All outdoor lights with an output exceeding 2200 lumens and lights exceeding 1100 lumens (approximately a 75 watt incandescent bulb) that are elevated 6 feet (typical fence height) or more above finished grade shall be fully shielded (see definitions on page 10) or employ reflectors or beam angle control that is adjusted so no direct illumination is directed off site and the potential for glare and unnecessary light diffusion on adjacent property is minimized.

(Staff comment: Reportedly, light levels at or below about 2000 lumens (approximately a 150 watt bulb) is generally not objectionable unless viewed against a dark background-Outdoor Lighting Manual for Vermont Municipalities).

- ii. Option: All outdoor lights with an output exceeding 800 lumens (e.g., approximately a 55 watt incandescent bulb) not addressed by Subsection B(4)(a)(i) shall be at least partially shielded (see proposed definition on page 11) so no direct illumination is directed off site and the potential for glare and unnecessary light diffusion on adjacent property is minimized.

Deleted: a. Lighting height. The maximum height for light fixtures and supporting structures, including any standard or base, is as follows: ¶

i. Freestanding and building-mounted light fixtures: ¶

- a) 15 feet above finished grade or 70% of the distance to the closest property line shared with a residential lot, whichever is more, up to a maximum of 20 feet. ¶
- b) up to 20 feet if the applicant demonstrates that it is necessary for illumination and it will not cause light trespass or glare on residential lots, consistent with Subsection (4)(b). ¶

¶ (Staff comment: the regulations staff reviewed allowed standard fixture heights ranging from 14 to 25 feet; a 20-foot height was specifically allowed for tennis courts.) ¶

- ii. Athletic fields- 50 feet, or as demonstrated to be necessary, consistent with Subsection B(4)(b). ¶
- iii. Parking lots- 40 feet. ¶

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iii. Bulbs of light fixtures with an output of more than 1100 lumen shall not be visible from the adjacent residential property line from point 6-feet above the ground surface. (Staff comment: The regulations staff reviewed used 4 to 6 feet).

Option: Light emitted from outdoor lighting shall not cause the light level at any property line shared with a residential lot or site to exceed 0.1 foot-candles. (see definition on page 11) measured 5 feet above the ground in a vertical plane.)

(Staff comment: The standard above requires measurement of light at the property boundary. This would require purchase of a meter and training for staff to operate the equipment and to determine the source of the light. Reportedly, light levels of about .3 to .5 candles at 5 feet above the ground are necessary to see a person well enough identify them on a walkway, per the Outdoor Lighting Manual for Vermont.)

b. Hours of operation. Flood lights, and lights for athletic fields, outdoor recreation facilities, and other lights more than 6 feet above the finished grade that are visible from abutting residences shall be turned off at 10:00 p.m. except for:

- i. Motion sensor activated security lighting;
- ii. Other situations for which an applicant demonstrates that it is necessary for security or safety reasons.

c. Timers. Outdoor lighting structures elevated more than 6 feet above the finished grade shall have controls that automatically extinguish the lighting when sufficient daylight is available, or when the light is not needed, by using a control device or system such as a photoelectric switch, astronomic time switch or equivalent functions from a programmable lighting controller, building automation system or lighting energy management system, all with battery or similar backup power or device, except for the following:

- i. Lighting activated by a motion sensor;
- ii. Lighting under canopies;
- iii. Lighting for tunnels, parking garages, garage entrances, building entrances, and similar conditions; and
- iv. Lighting for stairs and walkways.

(based on the Joint IDA – IES Model Lighting Ordinance/Lite).

d. Lighting height. The maximum height for light fixtures and supporting structures, including any standard or base, is as follows:

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ii. Public athletic field and park lighting, which may remain on for 45 minutes following the close of the event or facility; and

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- i. Freestanding and building-mounted light fixtures:
 - a) 15 feet above finished grade or 70% of the distance to the closest property line shared with a residential lot, whichever is more, up to a maximum of 20 feet, or
 - b) up to 20 feet if the applicant demonstrates that it is necessary for illumination and it will not cause light trespass or glare on residential lots, consistent with Subsection (4)(b).

(Staff comment: The regulations staff reviewed allowed standard fixture heights ranging from 14 to 25 feet; a 20-foot height was specifically allowed for tennis courts.)

- ii. Parking lots- 40 feet or as demonstrated to be necessary, consistent with Subsection B(4)(b)

- e. Uplighting. Uplighting shall not be used except for ground mounted signs, landscaping, and flags. Uplighting fixtures shall be shielded, use beam angle control, or be aimed such that it produces no glare or spillover lighting beyond the site boundaries. Such lighting shall have a maximum inclination of 60% and a maximum light output of 1100 lumens. (based on the Homer Glen ordinance)

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(Staff comment: We need to decide how to administer and enforce any regulations so it is not an unreasonable burden on the property owner and not excessively time consuming for staff.)

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Chapter 2, Definitions

The following definitions are proposed to be added to Chapter 2:

Foot-candle. A measure of illumination expressing the quantity of light received on a surface. One foot-candle is the illuminance produced by a candle on a one square foot surface at a distance of one-foot. (based on the Joint IDA – IES Model Lighting Ordinance/Lite).

Fully shielded luminaries. Luminaries constructed and installed in such a manner that all light emitted by the luminaire, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane through the luminaire's lowest light-emitting part.

Light trespass. Light that falls beyond the property it is intended to illuminate.

Lumen. The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from “watt,” a measure of power consumption). The amount of light energy from a source with the intensity of one candlepower on a unit area at a unit distance from the source. (based on the Joint IDA – IES Model Lighting Ordinance/Lite).

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Outdoor recreational facilities. Outdoor recreational facilities means privately owned portable or permanent multi-use athletic flooring or surfaces, including any associated fencing or netting, portable and permanent basketball backboards, lacrosse and soccer goals, batting cages, pitching equipment and similar outdoor recreation facilities and associated activity areas.

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Massing. The overall size and shape of a structure or building.

Partly shielded luminaries. A partially shielded lamp typically with an opaque top and translucent or perforated sides, designed to emit most light downward, for example no more than approximately 10% of the emitted light shines above the horizontal plane.

Significant tree. A tree is determined to be significant by the City Arborist based on its size, health, species, location, proximity to other significant trees, and other characteristics.