

**PROPOSED AMENDMENT
OF THE
COMMUNITY DEVELOPMENT CODE**

DISCUSSION DRAFT – PART II

September 27, 2012

Notes:	
Plain text =	existing regulation
Strike through =	proposed deletion to existing regulations
<u>Underline</u> =	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
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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.
- 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.
- 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

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:

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

(Staff comment: Portable basketball hoops are common on driveways and staff has not received complaints about them in recent years).
 - b. Except for driveways provided for in Subsection (A)(1)(a) above, outdoor recreational facilities are only allowed in:
 - 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).
 - 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

(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 1. 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:)
- 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);
 - 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 5).
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.

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)
 - 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; and
 - 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.

- 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.

- 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.

- 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 page10) 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.

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:

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)

(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.)

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).

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.

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.

Chapter 44, FENCES

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44.020. SIGHT-OBSCURING FENCE; SETBACK AND HEIGHT LIMITATIONS

- A. **Fences are permitted outside of yards required in the applicable zoning district.**
A ~~sight- or non-sight-obscuring~~ fence may be located on the property line or **elsewhere** in a required 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 **in height above finished grade**, except pillars and driveway entry features

subject to the requirements of Chapter 42 CDC, Clear Vision Areas, and approval by the Planning Director. **(See the applicable zoning district for the minimum size of required yards and Chapter 2, Definitions, for descriptions of required yards);**

*Option: Consider deleting the following and replacing it with language such as: **Fences in all other yards shall not exceed 6 feet in height, except as provided for in Subsection A(2), consistent with Chapter 42, Clear Vision Areas.***

- 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;~~ (*Staff comment: by definition the side and front yards are mutually exclusive, see Chapter 2.*)
- ~~b.e.~~ 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~~ **provided** it does not exceed six feet **in height above finished grade** ~~provided~~ **and** the provisions of Chapter 42 CDC, are met;
- ~~c.d.~~ A required rear yard which abuts a street ~~and~~ **provided** it does not exceed six feet **in height above finished grade**; or
- ~~d.e.~~ A required side yard area which does not abut a street or a rear yard ~~and~~ **provided** it does not exceed six feet **in height above finished grade**.

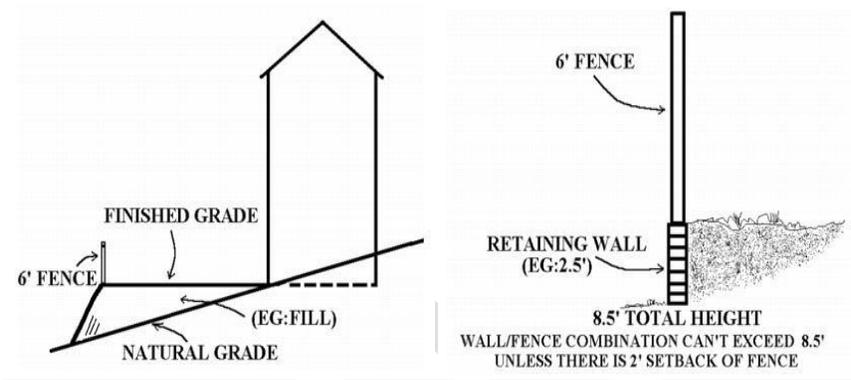
- 2. **Subsection A (1) above does not apply to fencing for outdoor recreation facilities involving projectiles allowed under Subsection 17.030A, provided the fencing and/or netting does not exceed 10 feet in height above the finished grade, and conforms to Chapter 42, Clear Vision Areas. Such fencing or netting shall not be used as perimeter site fencing.**

(Option: Limit fences to 8 feet where they would be visible from public right-of-way and within standard setbacks along property lines shared with a residential lot.)

- 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, **except that fencing for outdoor recreational facilities involving projectiles allowed under Subsection 17.030(A) may reach 10 feet above the finished grade at the base of the wall or berm.**
 - 2. When the retaining wall or earth berm is greater than 30 inches in height **above finished grade**, the combined height of the retaining wall and fence or

wall from finished grade shall not exceed eight and one-half feet, **except fencing and/or netting for outdoor recreational facilities may be a maximum of 10 feet above the finished grade at the base of the wall or berm.**

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 eight and one-half 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, **except fencing and/or netting for outdoor recreational facilities may be a maximum of 10 feet above the finished grade at the base of the wall or berm.**



Chapter 54, LANDSCAPING

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54.020

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- E. Landscaping by type, location and amount.

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4.F. Landscaping (trees) in new subdivision.

- a1. 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 subsection (C) of this section.
- b2. The cost of street trees shall be paid by the developer of the subdivision.
- c3. The fee per street tree, as established by the City, shall be based upon the following:
 - 1)a. The cost of the tree;
 - 2)b. Labor and equipment for original placement;

- 3)e. Regular maintenance necessary for tree establishment during the initial two-year period following the City schedule of maintenance; and
 - 4)d. A two-year replacement warranty based on the City's established failure rate.
5. **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 chapter requires~~ Any multi-family, commercial, or public facility which causes a change in public right-of-way or street improvement to **shall** comply with the street tree planting plan and standards.
6. **Screening. Fencing on a residential lot or site in excess of 6 feet in height within a required yard shall be screened with perimeter landscaping including evergreen trees and/or shrubs, spaced such that, upon maturity, they will block at least 50% of the view of the fence from any abutting right-of-way and/or abutting lot, as determined by the City Arborist or Parks Department Director, consistent with Chapter 42, Clear Vision Areas.**

Residences in Commercial Districts

(Overview: The CDC does not allow residential units above the first floor of commercial businesses in the some commercial districts unless it is multi-family housing (defined in Chapter 2 as three or more units) which closes the door on the opportunity to have one or two residential units above smaller commercial buildings, for example in the Willamette. The City has recently had inquiries about this possibility. The proposed amendment below would provide for one and two dwelling units in commercial buildings in the General Commercial (Chapter 19) and Neighborhood Commercial (Chapter 18) districts.)

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19.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

- 1. **Single family attached and single family detached above a permitted use, or** ~~M~~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 58.050.

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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.

4. Utilities, minor.
5. Transportation facilities (Type I).
6. **Single family attached and single family detached above a permitted use.**

Design Review Submittal Requirements

(Overview: The following refines the submittal requirements for design review. The proposed changes remove duplicative requirements, remove items that are not needed for review, and add items that are needed for review to simplify and clarify the process for the applicant, staff, and the Planning Commission.)

55.070 SUBMITTAL REQUIREMENTS

- A. The design review application shall be initiated by the property owner or the owner's agent, or condemnor.
- B. A pre-application conference, **per Subsection 99.030 B**, shall be a prerequisite to the filing of an application.

~~The Director shall determine which class of design review is required.~~

- ~~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 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.~~

(Staff Comment: Pre-application conferences are discussed in Subsection 99.030 B. This section provides sufficient information as to the purpose of and information given at pre-application conferences.)

- C. **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, is required before** ~~A prerequisite to the filing of an application for development proposals that:

 1. ~~Have~~ include greater than 10 multi-family units, ~~or commercial/industrial~~
 2. ~~n~~**Non-residential** buildings greater than 1,500 square feet in size,
 3. ~~A~~**a** four-lot or more planned unit development,
 4. ~~A~~**a** 10-lot or greater subdivision, or~~

5. ~~A~~ a zone change that requires a Comprehensive Plan amendment is ~~a meeting with the respective City-recognized neighborhood association, per CDC 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 57.090.~~

D. The applicant shall submit a completed application form and **one digital or electronic copy in an accessible format. In addition, three copies at the original scale and three copies reduced to 11 inches by 17 inches or smaller of all drawings and plans must be submitted and three copies of all other items must also be submitted. When the application submittal is determined to be complete, additional copies may be required as determined to be necessary by the Planning Department.**

1. The development plan for a Class I design review shall contain the following elements:
 - a. A site analysis (CDC 55.110) only if the site is undeveloped.
 - b. A site plan (CDC 55.120) ~~is required.~~
 - c. Architectural drawings, including building envelopes and all elevations (CDC 55.140) only if architectural work is proposed.
 - d. Pursuant to CDC 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 inches by 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.~~
2. The development plan for a Class II design review shall contain the following elements:
 - a. A site analysis (CDC 55.110);
 - b. A site plan (CDC 55.120);
 - c. A grading plan (CDC 55.130);
 - d. Architectural drawings, indicating floor plan and elevation (CDC 55.140);
 - e. A landscape plan (CDC 55.150);
 - f. A sign plan (CDC 55.160); and
 - g. ~~A pedestrian and automobile circulation plan.~~
 - fh. The utility plan: The application shall include a submittal appropriate to respond to the approval criteria of CDC 55.100(I)(1) through (5) relating to streets, drainage, municipal water, sanitary sewers, solid waste, and recycling storage.
 - g. **A light coverage plan with photometric data, including the location and type of outdoor light, with specific consideration given to crime prevention.**
 - h. **If the land use is expected to generate noise that may exceed DEQ standards, a noise study conducted by a licensed acoustical engineer that demonstrates that the application and associated noise sources will meet DEQ standards is required. Typical noise sources of concern include vehicle drive-throughs, parking lots, HVAC units, and public address systems.**
 - i. **Documents as required per the Tree Technical Manual.**

(Staff Comment: Provisions "g" and "h" are moved, and modified, from 55.120 J and M as specific requirements of a site plan since they are separate plans. Provision "i" is added to clarify the timing and the requirements that are detailed in 55.100 B and 55.110 B (10) A hyperlink to the Tree Technical Manual will be included for the web version).

3. A narrative, based on the standards contained in this code, which supports any requested exceptions as provided under CDC 55.170.

- 4. Submit full written responses to approval criteria of CDC 55.100 for Class II design review, or CDC 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 **deposit and** fee.

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.

...
 B. Relationship to the natural and physical environment.
 ...

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.~~

ab. 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. **The material and colors shall be complementary to the surrounding buildings.**

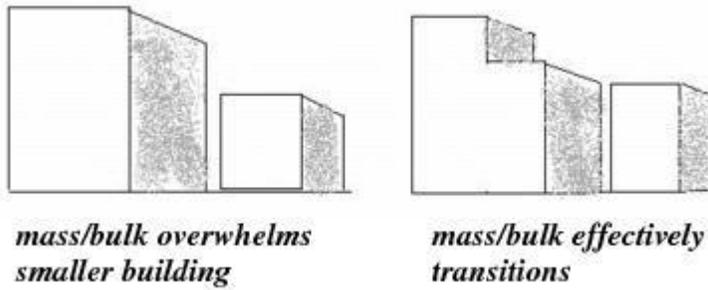


contextual design



contrasting design

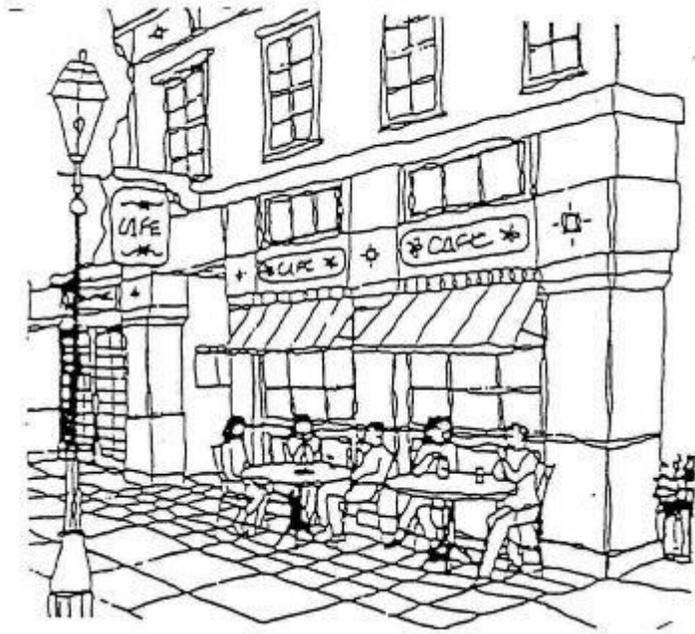
be. While there has been discussion in Chapter 24 CDC about transition, it is appropriate that new buildings should architecturally transition in terms of bulk and mass to work with, or fit, adjacent existing buildings. This transition can be accomplished by selecting designs that “step down” or “step 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.



cd. 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.

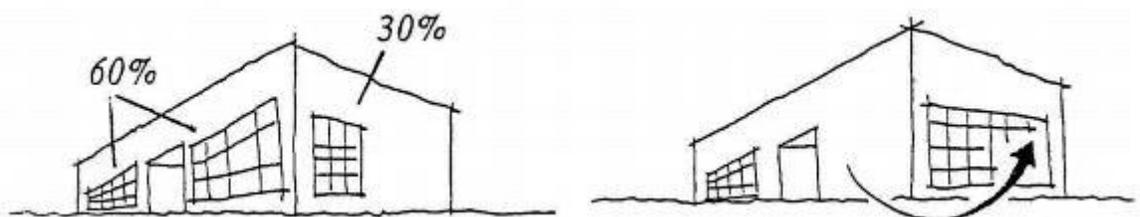
de. Human scale is a term that seeks to accommodate the users of the building and the notion that buildings should be designed around the human scale (i.e., their size and the average range of their perception). Human scale shall be accommodated in all designs by, for example, multi-light windows that are broken up into numerous panes, intimately scaled entryways, and 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.

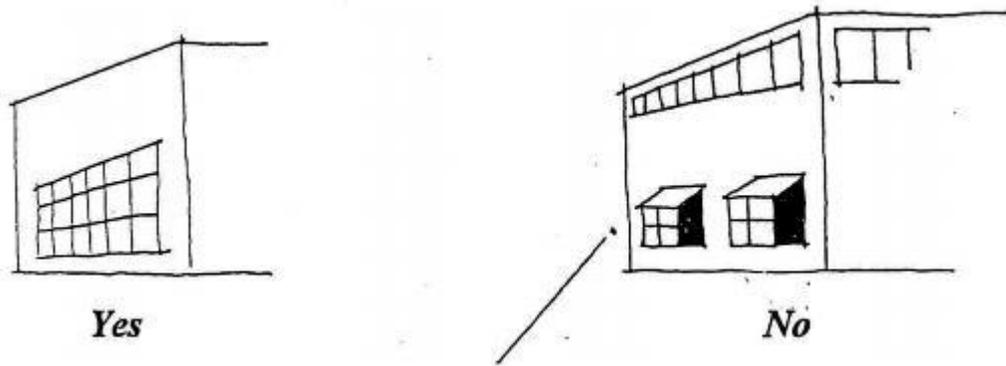


human scale is captured in this example

ef. 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 percent of 100 feet) 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.



60 percent of lineal street facing or main elevation is windows. 30 percent of one side elevation is windows. You may transfer windows from the side to front, or vice versa.

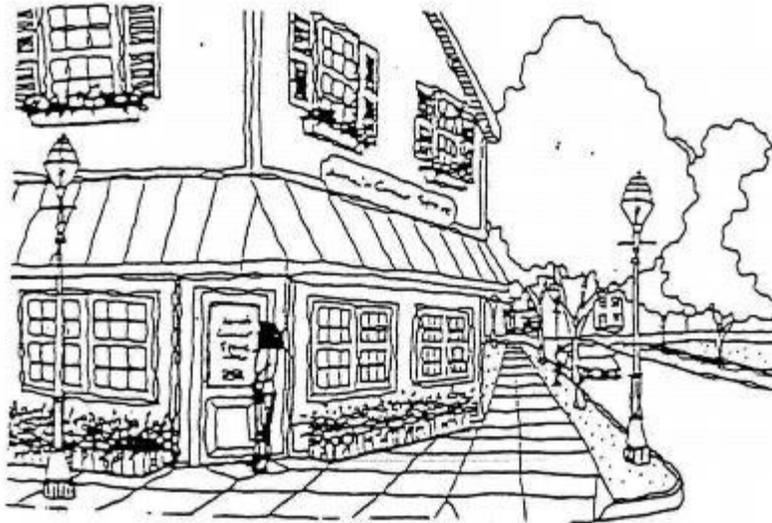


(Windows not at eye level and/or not flush with building.)

fg. 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.

gh. 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.

hi. 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

ij. Sidewalk cafes, kiosks, vendors, and street furniture are encouraged. However, at least a four-foot-wide pedestrian accessway must be maintained per Chapter 53 CDC, Sidewalk Use.

55.110 SITE ANALYSIS

...

- B. A site analysis on a drawing at a suitable scale (in order of preference, one inch equals 10 feet to one inch equals 30 feet) which shows:

...

6. Potential natural hazard areas including:
 - a. Floodplain areas;
 - b. ~~Areas subject to a high water table;~~
 - b**e. Landslide areas; and
 - c**d. Areas having a high erosion potential.
7. Resource areas including:
 - a. ~~Marsh and wetland areas.~~ **Wetlands;**
 - b. ~~Wildlife habitat areas identified by the City in its Comprehensive Plan.~~ **Riparian corridors;**
 - c. Streams;**
 - d. Habitat Conservation areas; and**
 - e. Large rock outcroppings.**
8. The site features including:
 - a. ~~Large rock outcroppings;~~
 - b. ~~Areas having unique views; and~~
 - c. ~~Streams and stream corridors.~~
- 9**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 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 55.100(B)(2) and expressed in square feet, and also as a percentage of total non-Type I and II area.~~

(Staff Comment: The stricken provision above will be specified in the Tree Technical Manual.)
- ~~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.~~

(Staff Comment: This provision above is addressed in CDC 55.070 D(2)(h).)
- ~~12.~~ Identification information including the name and address of the owner, developer, and project designer, and a lineal scale and north arrow.
- ~~10~~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.
- ~~14.~~ Identify applicable Goal 5 Resources identified in the City's Comprehensive Plan.

55.120 SITE PLAN

The site plan shall be at the same scale as the site analysis (CDC 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 CDC 55.110(B)(3).~~
- CD. Streams and stream corridors.
- DE. Identification information, including the name and address of the owner, developer, and project designer, and a lineal scale, and north arrow.
- EF. The location, dimensions, and names of all: 1. ~~E~~ existing and **proposed** platted streets, **public pathways**, and other public ways and easements on adjacent property ~~ies~~ and on the site, **and all associated rights-of-way.**
- 2. ~~Proposed streets or other public ways and easements on the site.~~
- FG. The location, dimensions and setback distances of all:
 - 1. Existing **and proposed** structures, improvements, and utility facilities **on site; and**
 - 2. Existing structures and driveways 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.~~
- GH. 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, **recycling**, loading, and delivery;
 - 4. Pedestrian and bicycle circulation areas **routes, including designated routes, through parking lots and to adjacent right-of-ways;**
 - 5. On-site outdoor recreation spaces and common areas;
 - 6. All utilities; and
 - 7. Sign locations.

(Staff Comment: Have the applicant show the locations of signs, but signs will be reviewed and approved through the sign permit process not design review.)

- HI. 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 mailboxes.
- M. ~~Submit an engineering noise control plan by a licensed acoustical engineer to satisfy appropriate noise standards, identified in CDC 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.~~

(Staff Comment: Staff proposes to relocate J. and M. to Subsection 55.070 D(2) and require separate light coverage and noise control plans rather than require them as part of the site plan. The requirements in K. are already shown on the elevations that are submitted. L. is generally not applicable to staff's review.)

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 85.170(B)(2).

55.130 GRADING PLAN

The grading and drainage plan shall be at the same scale as the site analysis (CDC 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.~~

(Staff Comment: This appendix referenced above does not exist.)

- ~~B.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.~~

(Staff Comment: These are already required by Subsection 33.030 C.)

- ~~C.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.

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 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.

- A. The landscape plan shall be prepared and shall show the following:
 - 1. Preliminary underground irrigation system, **if proposed**.
 - 2. The location and height of fences and other buffering of screening materials, **if proposed**.
 - 3. The location of terraces, decks, patios, shelters, and play areas, **if proposed**.
 - 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 **list schedule**.
 - 3. Supplemental information as required by the Planning Director or City Arborist.

CHAPTER 35, TEMPORARY STRUCTURES AND USES

(Overview: The City has had requests for temporary use approval for construction trailers and staging areas that were needed for at least two years. These requests were acted on by the City Council. A current project under review would require a construction trailer for nearly three years. Processing a temporary use requiring a public hearing takes a couple of months and costs several thousand dollars. The proposed amendments would allow all temporary uses to be acted on by the Planning Director under Alternative 1 below or by the Planning Director and Planning Commission under Alternative 2.)

Alternative approach 1: Make all temporary uses subject to administrative approval, with an appeal to the City Council. Extend the duration of temporary uses as deemed appropriate.

Alternative approach 2: Retain the current approval authority structure but extend the duration of temporary uses as follows:

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 **uses may be approved** permits may be issued for uses listed in CDC 35.040 which are temporary in nature, **consistent with this chapter.**

35.030 TEMPORARY STRUCTURES AND USES, ADMINISTRATION AND APPROVAL PROCESS

- A. The Planning Director may **authorize** issue **the following** temporary uses, **subject to Subsection 35.040(A)** permits:
1. For ~~P~~portable outdoor storage units or similar structures, as are typically used for storing items in conjunction with a move, minor remodel or construction project, where these structures will remain on site in excess of 14 calendar days during a given calendar year.
 2. ~~For other temporary uses for a period not to exceed 60 days from the date of issuance; and (moved to 4).~~
 - a. ~~Such permits shall only be consecutively renewed for one additional 60-day period by the Director. (moved to E).~~
 - 2.b. The Director may issue temporary permits to registered non-profit, religious or benevolent groups, orders or associations for the placement of ~~d~~ Drop boxes, trailers, or structures of similar function **for registered non-profit, religious or benevolent groups, orders or associations, subject to the following:**
 - a. These ~~d~~ Drop boxes **are only allowed** shall be placed in General Commercial, Office Business Center, Campus Industrial, General

Industrial, and Neighborhood Commercial zoning districts when the: only.

- 1) Location, color, bulk, size and design of the structure is compatible with, and appropriate to, the proposed location;
- 2) Structure is screened from adjacent residential uses in accordance with CDC Chapter 44; and
- 3) Structure complies with CDC Chapter 48. Also see ~~The provisions of CDC 44.030 (Screening), Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas, and any other applicable regulations, shall apply.~~

b. The temporary use approval for the uses authorized under subsection (A)(2) ~~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:

3. **Construction trailers and associated parking and staging areas for up to two years from the date of issuance.**
 4. Other temporary uses for a period not to exceed 60 days from the date of issuance.
 3. ~~The Planning Director may issue temporary permits to non-profit and for-profit groups or individuals for uses described in CDC 35.040(A). (Redundant with 35.040A).~~
- B. The Planning Commission may ~~issue~~ **approve** temporary uses ~~permits~~ that will terminate between 60 days and ~~six months~~ **one year** from the date of issuance, **with the exception of construction trailers and associated parking and staging areas which can be approved for up to three years, subject to Subsection 35.040(A).**
- C. The City Council may issue temporary use permits that will terminate between ~~six months and one year~~ **and two years.**
- 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.
- E. **Temporary use approvals shall only be consecutively renewed for one additional period of no greater duration than the original approval, not to exceed a total of three years.**

35.040 TEMPORARY USES-STANDARDS

(incorporated in the definition below) 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;
5. — A real estate office within a development limited to the sale of real estate in the development;
6. — Portable outdoor storage units or similar structures as are typically used for storing items in conjunction with a move, minor remodel or construction project.

AB. Temporary uses described in subsection A of this section may be approved by the **Planning Director and Planning Commission** if they:

1. Are located on property that is appropriate for the proposed use as determined by the approval authority ~~Planning Director~~;
2. Have a paved, ~~or~~ graveled, **or dust free** surface to minimize dust generation ~~or~~ **and** mud tracking, **if applicable**;
3. Have adequate parking and circulation space;
4. Are in an area that will allow safe ingress and egress including adequate line of sight and vision clearance; **and**
5. Have the property owner's signed permission.

Chapter 2, Definitions

Temporary use. A use which, by its nature, will last under-two years, **with the exception of drop boxes and construction related uses and facilities, such as construction trailers, which may be in use for the duration of the construction project.** Examples of temporary uses **include, but are not limited to:** are uses associated with the sale of goods for a specific holiday, activity or celebration, **such as the sale of Christmas trees and fireworks; uses associated with construction; seasonal uses, such as the sale of fresh fruits, produce, and flowers; uses associated with festivals, celebrations or special promotional events; a real estate office within a development limited to the sale of real estate in the development; and portable outdoor storage units or similar structures as are typically used for storing items in conjunction with a move, minor remodel or construction project.** **Temporary uses do not include businesses seeking a temporary or interim location.**

99.060 APPROVAL AUTHORITY

This section explains the authority of the Planning Director, Planning Commission, City Council, and Historic Review Board as it relates to quasi-judicial and legislative action.

- A. Planning Director authority. The Planning Director shall have the authority to:
 - 1. Approve, deny, or approve with conditions the following applications:
 - a. A temporary use **or structure** application ~~for a period of six months or less~~ (Chapter 35 CDC).
 - ...
- B. Planning Commission authority. The Planning Commission shall have the authority to:
 - ...
 - 2. Approve, deny, or approve with conditions the following applications:
 - a. A quasi-judicial zone change application (Chapter 105 CDC).
 - b. A temporary use or structure application ~~for a period of greater than six months~~ (Chapter 35 CDC).
 - ...
- C. City Council authority. The Council shall have the authority to:
 - 1. Approve, deny, or approve with conditions applications for the following development applications.
 - a. A quasi-judicial Comprehensive Plan Map amendment (Chapter 105 CDC).
 - b. A quasi-judicial zone change involving a concurrent application for a quasi-judicial Plan Map amendment (Chapter 105 CDC).
 - c. Boundary change proposals (Chapter 81 CDC).
 - d. Temporary use or structure application (Chapter 35 CDC).**
 - ...

Storm Water Control on Single Family and Duplex Lots

(Overview. In the early 1990's, the Federal Clean Water Act required municipalities with populations greater than 100,000 (including areas municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems) to apply for and obtain a National Pollutant Discharge Elimination System (NPDES) permit for their storm water discharges. In Oregon, this program was delegated to the Oregon Department of Environmental Quality (DEQ). As a result, DEQ directed six Oregon jurisdictions and associated co-permittees to apply for and obtain a municipal NPDES storm water permit. Clackamas County was one of the jurisdictions required to obtain an NPDES permit, and the City of West Linn is one of the 13 co-permittees on the Clackamas County permit.

To meet the Municipal Separate Storm Sewer (MS4) and National Pollutant Discharge Elimination System (NPDES) permit, West Linn was required by DEQ to adopt and implement a Storm Water Management Plan (SWMP). West Linn's latest SWMP was adopted March 15, 2011. The SWMP took many of the best management practices (BMPs) of the previous SWMP and added some specific quantifiable standards. For new development, the SWMP states that "the City of West Linn uses the current City of Portland Storm Water Management Manual which requires treatment for projects that develop, or for redevelopment of, more than 500 square feet of

new impervious surface. "This is in conflict with CDC chapter 33. The proposed amendment would eliminate the exception for lots containing single family and duplexes from the stormwater requirement consistent with our obligations to meet the SWMP and DEQ's requirements).

Chapter 33

STORMWATER QUALITY AND DETENTION

33.010 PURPOSE

The purpose of this chapter 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. (Ord. 1463, 2000)

33.020 APPLICABILITY

This chapter 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.~~