

**PROPOSED AMENDMENTS**  
**TO CHAPTERS 2, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 21, 22, 23, 27, 28, 31, 32, 33, 46, 52, 55, 56,**  
**60, 65, 75, 85 AND 99**  
**OF THE COMMUNITY DEVELOPMENT CODE**  
**AND VARIOUS SECTIONS OF THE COMPREHENSIVE PLAN**

**PLANNING COMMISSION**  
**PUBLIC HEARING DRAFT**

**August 23, 2013**  
**For September 4, 2013 meeting**

*The following contains Planning Commission’s proposed amendments being considered to the Comprehensive Plan and the Community Development Code (CDC). Generally, the categories are found on the following pages:*

<b>AMENDMENT CATEGORY</b>	<b>PAGE</b>
<i>Comprehensive Plan</i>	2
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<b>Notes:</b>	
Plain text =	existing regulation
<b><u>Underline</u></b> =	proposed addition to existing regulations
<b><del>Strike through</del></b> =	proposed deletion to existing regulations
<b>Shaded</b> =	Staff recommendation provided where it differs from the proposed modification.
<i>Italic</i> =	Staff comment

# COMPREHENSIVE PLAN

## Council-Citizen Vision Goals West Linn Comprehensive Plan Adopted Feb. 5, 2003-September 2013

1. Maintain and protect West Linn's quality of life and livability.
2. ~~Actively support and encourage~~ West Linn's neighborhood associations and promote citizen involvement in civic life. ~~Establish and maintain~~ **Foster land use planning and** policies that give neighborhoods ~~real~~ control over their **communities'** future.
3. Maintain and strengthen trust and credibility in City government.
4. Preserve and protect West Linn's water resources.
5. Maintain a budgetary process that is fiscally prudent and provides quality and cost-effective City services to the citizens of West Linn. **Utilize West Linn small businesses when possible to perform contracted City services.**
6. Promote land use policies, both locally and regionally, that are based on the concepts of sustainability, carrying capacity, and environmental quality.
7. ~~Foster and active partnership with the School District that promotes a safe and positive learning environment for West Linn students.~~ **Foster mixed use development that integrates small business and residential dwellings in appropriate corridor areas to encourage economic development and revitalize neighborhood/community connections.**
8. Maintain openness and accessibility for the public to members of the City Council.
9. Oppose urbanization of the Stafford Triangle and pursue policies ~~that would permanently to~~ retain that area as a rural buffer between West Linn and neighboring communities.
10. ~~Pursue City policies predicated on the assumption that growth should pay for 100% of the cost it creates.~~ **Support development of remaining commercial lands through a master planning process that balances neighborhood/community desires with economic development appropriate for the geographic location and its attributes. Encourage partnering with Oregon City for development of the Arch Bridge/I-205 corridor region.**
11. ~~Assert through both planning and policy that compatibility with existing development should be a primary goal in West Linn's land use process.~~

Staff recommends deleting this section in its entirety.

### Council Goals

Adopted Feb. 5, 2003

1. Maintain and protect West Linn's quality of life and livability.
2. Actively support and encourage West Linn's neighborhood associations and promote citizen involvement in civic life. Establish and maintain policies that give neighborhoods real control over their future.
3. Maintain and strengthen trust and credibility in City government.
4. Preserve and protect West Linn's water resources.
5. Maintain a budgetary process that is fiscally prudent and provides quality and cost effective City services to the citizens of West Linn.
6. Promote land use policies, both locally and regionally, that are based on the concepts of sustainability, carrying capacity, and environmental quality.
7. Foster an active partnership with the School District that promotes a safe and positive learning environment for West Linn's students.
8. Maintain openness and accessibility for the public to the members of the City Council.
9. Oppose urbanization of the Stafford Triangle and pursue policies that would permanently retain that area as a rural buffer between West Linn and neighboring communities.
10. Pursue City policies predicated on the assumption that growth should pay 100% of the cost impacts it creates.
11. Assert through both planning and policy that compatibility with existing development should be a primary goal in West Linn's land use process.

### GLOSSARY

These definitions are intended to assist in understanding the intent of the Comprehensive Plan and are consistent with definitions used in supporting and implementing documents of the Plan.

For the purpose of the Comprehensive Plan, the following terms or words are defined as follows:

...

**Conditional Use.** A proposed use of land which may be allowed after the City Planning Commission has determined that the proposed use is appropriate for the site, compatible with surrounding uses, is supported by City public facilities, and is of overall benefit to the community and meets all other relevant criteria.

*Staff recommends modifying this definition*

**Conditional Use. A proposed use of land which may be allowed after the City Planning Commission has determined that the proposed use is appropriate for the site, compatible with surrounding uses, is supported by City public facilities, and is of overall benefit to the community and meets all other relevant criteria. A use which may be permitted by the approval authority following a public hearing, upon findings by the approval authority that the approval criteria have been met or will be met upon satisfaction of conditions of approval.**

...

GOAL 9: ECONOMIC DEVELOPMENT

**BACKGROUND AND FINDINGS**

...

Creation of a strong and diverse economic environment is a priority for the City as it is an essential component for the City to maintain its excellent quality of life. Sustainable economic activities provide services for residents, create jobs, offer opportunities, and generate tax revenue. In particular, the City's economic development efforts should promote development that is well-planned, contextually appropriate, and which enhances the overall quality of life for our residents. These could range from smaller home-based businesses in residential areas to more vibrant mixed use developments near the Arch Bridge that would serve tourists and visitors to the City.

West Linn has significant strengths as a location for employers. West Linn is conveniently located on the regional transportation network with two interchanges off of I-205, Highway 43, bridge connections to Oregon City and is within 20 minutes of the Portland International Airport. It is a 20 to 30 minute auto commute to the major employment centers of Portland, Vancouver, Beaverton, Gresham, Wilsonville and Hillsboro. This locational advantage can help provide options for residents employed outside West Linn and bring employment opportunities to the City.

....

Metro projects employment in the City to be 5,725 in 2017. City projections, based on a 1999 inventory of vacant and underutilized land zoned for commercial and industrial use within the City,

indicate that West Linn could accommodate between 4,840 and 6,045 jobs by the year 2017, depending on market factors and the degree commercial areas develop and/or redevelop over time. This represents an increase of between 1,048 and 2,253 new employees in all employment sectors since 1996, with the greatest increases in office, retail, and service sectors.

Notwithstanding these projections, the residents of the City have clearly expressed an interest in retaining the City's quiet residential character (community survey prepared prior to preparation of this Comprehensive Plan on 10/16/98). Recognizing the difficulty of accommodating the projected employment and retaining the City's current characteristics, planning will be directed towards enhancement and retention of the employment base currently in existence. In particular, the City should encourage the type of new home-based businesses that do not require commercial infrastructure and do not negatively impact surrounding residences and neighborhoods.

*Staff recommends deleting the this paragraph*

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## **GOALS, POLICIES, AND RECOMMENDED ACTION MEASURES**

### **GOALS**

1. Support telecommuting, home-based businesses compatible with residential neighborhoods-and, in general, a higher jobs-to-housing ratio.
2. Encourage the retention, **expansion** and economic viability of existing business and industry.
3. Encourage businesses that enhance the community; provide wanted goods and services; and pay living wages. Small, locally-owned businesses with strong ties to the community are especially desired.
- 4. Provide adequate commercial and industrial land for a range of employment opportunities in the City.**
- 5. Make the most efficient use of our existing commercial and industrial lands.**
- 6. Retain, strengthen, and expand the City's existing business base.**

## **POLICIES**

1. Promote home occupations by developing and implementing supportive zoning and building codes and services and other regulations; ~~require compatibility~~ **that are compatible** with surrounding neighborhoods.
2. Encourage West Linn employers, including the City, to offer the option to telecommute (i.e., work from home).
3. Support and encourage telecommunications, printing, and similar types of business support firms.
4. Update City regulations to respond to changes in technology as they affect local businesses.
5. Maintain public facilities (specifically right-of-way improvements) in established commercial and industrial districts to promote economic activity.
6. Develop a working partnership with the Chamber of Commerce, business community, and various agencies and organizations, such as the School District, to meet the economic needs of West Linn.
7. Interact with Tri-Met, Metro, the Port of Portland, Oregon Department of Economic Development, and other organizations in economic development planning and implementation efforts.
8. Maximize the use of regional, state, and federal funding for infrastructure planning and development.
9. Adopt City regulations that are easy to understand and contain development standards that can be uniformly applied.
10. Enforce design and development standards for industrial areas.
11. Encourage the economic vitality of the four existing commercial areas.
- ~~12. Encourage the development of a tele-community center.~~
13. Continue to maintain good working relationships with property owners in industrial areas overlooking the Willamette River to ensure the City is “at the table” when these areas transition to other uses.
- 14. Support efforts and programs that promote tourism in the City.**

## **RECOMMENDED ACTION MEASURES**

1. Explore ways to support and improve the business climate **and enhance employment opportunities for businesses** in the City.
2. Inventory and maintain a list of vacant and redevelopable sites for new or expanding businesses.
3. Encourage a business environment and businesses that are viable and sustainable and that add to the overall quality of life in the community.
4. ~~Identify businesses, including those that support home occupations that do not negatively impact surrounding residences and neighborhoods, that the City will encourage to develop or expand in West Linn.~~ **Actively identify and pursue businesses that will have a positive overall impact on the community to develop or expand in West Linn.**
5. Investigate incentives and improve regulations to support locally owned businesses.
6. Identify and provide improvements for infrastructure needs to support appropriately located businesses.
7. Recommend a West Linn business representative to serve on the Clackamas County Economic Development Commission (EDC).
8. **Develop and M**aintain-a good working relationship with the West Linn business organizations.
9. **Develop and M**aintain-a good working relationship with the West Linn-Wilsonville School District.
10. Participate in regional efforts to encourage employers and policy makers to promote telecommuting and other flexible work arrangements.
11. ~~Encourage the development of a tele-community center.~~ **Develop and implement a strategy for assisting and supporting locally owned businesses, particularly successful home-based businesses and start-ups (e.g. support for a small business center, regulatory modifications, assisting with business education, identifying grant opportunities, etc.)**
12. ~~Explore the possibility of creating~~ **Create** a special mixed use zone **and framework plan** for the ~~industrial~~ **Arch Bridge** area overlooking the Willamette Falls.
13. ~~Explore ways of encouraging home-based businesses that do not negatively impact surrounding residences and neighborhoods.~~
14. ~~Explore the availability of high-speed data connections for voice and data transmission to all homes.~~

13. Engage and collaborate with regional partners to further our economic development efforts; particularly with regard to procuring additional sources of revenue, promoting tourism opportunities, and providing technical assistance.

14. Regularly evaluate the City's Economic Development Plan and update it as required.

15. Establish and support a standing advisory board to advise the City Council and to advance economic development efforts in the City.

## LAND USE APPEALS

### 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 to the applicant. 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 [99.240](#). (Ord. 1527, 2005; Ord. 1568, 2008; Ord. 1604 § 70, 2011)

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### 99.160 DECISION BY DIRECTOR

C. A decision made by the Director shall be final as provided by CDC [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 CDC [99.240](#); or
2. ~~Not less than two~~ **Three** members of the-Commission or ~~two members of a majority of~~ the Council order a review within 14 days of the final decision pursuant to CDC [99.240](#).

2. ~~Not less than two~~ **A majority of the** members of the Commission or ~~two members of~~ the Council order a review within 14 days of the final decision pursuant to CDC [99.240](#).

D. No Director's decision may modify the request from that set out in the notice given under CDC [99.080](#) and [99.090](#), unless new notice be given, except that conditions may be attached to the approval. (Ord. 1568, 2008)

#### **99.140 ESTABLISHING STANDING TO APPEAL OR REVIEW**

..

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, 2001; Ord. 1568, 2008)

#### **99.170 HEARING PROCEDURES**

G. A decision made by the Planning Commission or Historic Review Board shall be final as provided by CDC [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 CDC [99.240](#);
2. ~~Not less than two members~~ **A majority** of the Council order a review within 14 days of the final decision pursuant to CDC [99.240](#); or
3. It is an expedited land division application for which the provisions of Chapter [197](#) ORS shall apply.

#### **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.

A. Any decision made by the Planning Director pursuant to CDC [99.160](#), or the Planning Commission or Historic Review Board (except for expedited land divisions) on a development application as provided by CDC [99.170](#), may be appealed to the City Council pursuant to CDC [99.160\(C\)\(1\)](#) or [99.170\(G\)\(1\)](#) or may be reviewed by the City Council pursuant to CDC [99.160\(C\)\(2\)](#) or [99.170\(G\)\(2\)](#).

B. Any decision made by the Historic Review Board or Planning Commission under CDC [99.170](#) may be reviewed by the Council if the matter is referred under CDC [99.170\(D\)](#) to the Council, upon closure of the hearing, when the case presents a policy issue which required Council deliberation and determination.

C. Formally recognized neighborhood associations **have standing and** may appeal land use decisions to the appropriate bodies without cost if the Planning Director finds:

C. Formally recognized neighborhood associations **have standing and** 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.
2. A member of the association ~~must have~~ established standing on behalf of the association. ~~The member must have~~ **by** explicitly identifying ~~ied~~ 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 subsections A, B and C **(1) and (3)** of this section 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.

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 subsections A, B and C **(1) and (3)** of this section 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.

D. The Planning Commission shall have standing in all Historic Review Board decisions and may appeal such decisions, following Community Development Code appeal procedures, without cost.

E. The Historic Review Board shall have standing in all Planning Commission decisions involving property or structures within a historic district or designated as a landmark and may appeal such decisions, following Community Development Code appeal procedures, without cost.

### **99.250 APPLICATION FOR APPEAL ~~OR REVIEW~~**

A. The ~~application letter~~ notice of appeal ~~or review~~ shall contain:

1. A reference to the application sought to be appealed ~~or reviewed~~;
2. A statement explaining how the petitioner qualifies as a party with standing, as provided by CDC [99.140](#); and
3. A statement clearly and distinctly identifying the grounds for which the decision should be reversed or modified. The appeal shall identify:
  - a. applicable approval criteria that were misapplied, or
  - b. procedural irregularity, and
  - c. if petitioner is requesting that the Council re-open the record to allow submission of additional written testimony and evidence as part of the appeal, petitioner must show that:
    - i. The Planning Commission committed a procedural error, through no fault of the petitioner, that prejudiced the petitioner's substantial rights, and petitioner must demonstrate that reopening the record before the Council is the only means of correcting the error, or
    - ii. A factual error occurred before the Planning Commission, through no fault of the petitioner, which is relevant to an approval criterion and material to the decision.

B. The appeal ~~or review~~ application shall be accompanied by the required fee.

C. The hearing on the appeal ~~or review~~ shall be ~~limited to the provisions of CDC 99.280. 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.~~

### **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 CDC [99.140](#) to notice as required by CDC [99.080](#). (Ord. 1568, 2008)

### **99.270 CONTENTS OF NOTICE ~~ON~~ OF APPEAL ~~OR REVIEW~~**

Notice given to persons entitled to mailed notice under CDC [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 the 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;~~ the grounds on which new argument or testimony may be presented;
- 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.

**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, 2001; Ord. 1568, 2008)~~

**A. Except as provided for in 99.280(B), the appeal shall be confined to:**

- 1. Those issues set forth in the request to appeal; and,
- 2. The record of the proceedings as well as the oral and written arguments presented which are limited to those issues clearly and distinctly set forth in the notice of appeal;

**B. The Council may reopen the record to consider new evidence on a limited basis; specifically, if the Council determines that:**

- 1. A procedural error was committed that prejudiced a party's substantial rights, and reopening the record before the Council is the only means of correcting the error; or
- 2. A factual error occurred before the lower decision making body through no fault of the requesting party, that is relevant to an approval criterion and material to the decision.

**C. Except when limited reopening of the record is granted, pursuant to this Section, the Council shall not re-examine issues of fact and shall limit its review to determine whether there is substantive evidence in the record to support the findings by the lower decision making body, or**

to determine if errors in law were committed by the City. Review shall be limited to the issues clearly identified in the notice of appeal. No issue may be raised on appeal that was not raised before the Planning Commission with sufficient specificity to enable the Commission and the parties to respond.

## VARIANCES AND SPECIAL WAIVERS

### Chapter 75

#### VARIANCES AND SPECIAL WAIVERS

Sections:

- 75.010 PURPOSE
- 75.020 CLASSIFICATION OF VARIANCES
- 75.030 ADMINISTRATION AND APPROVAL PROCESS
- 75.040 TIME LIMIT ON A VARIANCE AND SPECIAL WAIVERS
- 75.050 APPLICATION
- ~~75.060 APPROVAL CRITERIA~~
- ~~75.0670 SITE PLANS AND MAP~~

#### 75.010 PURPOSE

The purpose of this chapter is to provide standards for ~~the granting of~~ variances and special waivers from the applicable zoning requirements of this code. However, this chapter may not be used to allow a use that is not a specified use in the zone where the land is located or to modify density provisions.

~~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 the applicable zone would create a burden upon a property owner with no corresponding public benefit, except that no use variance shall be granted.~~

#### 75.020 CLASSIFICATION OF VARIANCES

A. Class I Variance. A Class I variance will involve a small change from the zoning requirements and will only have a minor effect or no effect on adjacent property or occupants. Class I variances provide minor relief from certain code provisions where it can be demonstrated that the modification will not harm adjacent properties, and it conforms with any other code requirements. Class I variances are allowed for the following code provisions: and includes the following variances:

1. Required yard and minimum lot dimensional requirements. Required yards may be modified up to 20%, lot dimensions by up to 10 % and lot area by up to 5% if the decision making authority finds that the resulting approval:

- a. Provides for a more efficient use of the site;
- b. Preserves and incorporates natural features into the overall design of the project;
- c. Does not adversely affect adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards; and
- d. Provides for safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.

2. Off-street parking dimensional and minimum number of space requirements may be modified up to 10% if the decision making authority finds that the use is designed for a specific purpose, which is intended to be permanent in nature.

3. Dimensional sign requirements may be modified up to 10% if the decision making authority finds that the proposed larger sign is:

- 1. Necessary for adequate identification of the use on the property; and
- 2. Compatible with the overall site plan, the structural improvements, and with the structures and uses on adjoining properties.

D. Landscaping requirements in the applicable zone may be modified up to 10% if the decision making authority finds that the resulting approval:

- 1. Provides for a more efficient use of the site;
- 2. Preserves and incorporates natural features into the overall design of the project; and,
- 3. Will have no adverse effect on adjoining property.

~~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 10 or less feet.~~

~~d. Lot area by five percent or less of minimum required area.~~

B. **Class II Variance.** Class II variances may be utilized when strict application of code requirements would be inconsistent with the general purpose of the CDC and would create a burden upon a property owner with no corresponding public benefit. A Class II variance will involve a significant change from the **zoning code** requirements and may create adverse impacts on adjacent property or occupants. **It includes any variance that is not classified as a Class I variance or Special Waiver.** 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 10 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.~~

~~CD. 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.~~

#### **1. CLASS II VARIANCE APPROVAL CRITERIA**

**The approval authority may impose appropriate conditions to ensure compliance with the 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.~~

a. **The variance is the minimum variance necessary to make reasonable use of the property. To make this determination, the following factors may be considered, together with any other relevant facts or circumstances:**

i. **Whether the development is similar in size, intensity and type to developments on other properties in the City that have the same zoning designation.**

- ii. Physical characteristics of the property such as lot size or shape, topography, or the existence of natural resources.
- iii. The potential for economic development of the subject property.
- b. The variance will not result in violation(s) of any other code standard or conflict with the goals and policies of the West Linn Comprehensive Plan, and the variance will meet the purposes of the regulation being modified.
- c. The variance will not be detrimental to the public health, safety or welfare, or injurious to properties, improvements, or natural or historic resources in the vicinity.
- d. The need for the variance was not created by the applicant and/or owner requesting the variance.
- e. If more than one variance is requested, the cumulative effect of the variances results in a project that is consistent with the overall purpose of the zone.

~~A.— 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 code, topography, or other circumstances over which the applicant has no control.~~

~~B.— 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.~~

~~C.— 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.~~

~~D.— The variance request is the minimum variance which would alleviate the exceptional and extraordinary circumstance.~~

~~E.— The exceptional and extraordinary circumstance does not arise from the violation of this code.~~

~~F.— 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.~~

C. Special Waivers. Special Waivers are only applicable in mixed use and non-residential zoning districts. Special Waivers may be granted by the approval authority are only appropriate where it can be shown that the proposed site design provides a superior means of furthering the intent and purpose of the regulation to be waived. A Special Waiver involves a waiver of a standard to

permit a specific proposed development. It does not require demonstration of a hardship. It is a request to modify specific requirements in order to provide a superior site design that would not otherwise be possible under the standard requirements of the Code.

1. The Planning Commission may approve a Special Waiver due to the unique nature of the proposed development if it finds that there is sufficient evidence to demonstrate that the proposed development:

a. Demonstrates that the proposed development can comply with the regulation to be waived, but the waiver will provides an alternative means of furthering the purpose of the regulation to be waived; and,

b. Will not be materially detrimental to the public welfare or injurious to other property in the area when compared with the impacts of development otherwise permitted; and,

c. Provides adequate area for aesthetic design treatment to mitigate potential visual impacts from the use on surrounding properties and uses; and,

d. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features.

#### **75.030 ADMINISTRATION AND APPROVAL PROCESS**

A. Class I variances shall be decided by the Planning Director in the manner set forth in CDC 99.060(A). An appeal may be taken as provided by CDC 99.240(A).

B. Class II variances **and Special Waivers** shall be decided by the Planning Commission in the manner set forth in CDC 99.060(B). A petition for review by the Council may be filed as provided by CDC 99.240(B).

#### **75.040 TIME LIMIT ON A VARIANCE AND SPECIAL WAIVERS**

Approval of a variance **or special waiver** shall be void after three years unless substantial construction pursuant thereto has taken place unless an extension is granted per Chapter 99 CDC.

#### **75.050 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 for a Class II variance or Special Waiver 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 CDC 75.060, and which sustains the applicant's burden of proof.
2. A site plan as provided by CDC 75.070.

~~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.~~

D. Requests for more than one Class II variance for the same lot shall be consolidated in one application and reviewed concurrently by the City.

E. Not more than two (2) Class II variances may be approved for any one lot in a continuous 12-month period.

F. The applicant shall pay the requisite fee.

#### ~~75.060 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.~~

~~A.— 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 code, topography, or other circumstances over which the applicant has no control.~~

~~B.— 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.~~

~~C.— 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.~~

~~D. The variance request is the minimum variance which would alleviate the exceptional and extraordinary circumstance.~~

~~E. The exceptional and extraordinary circumstance does not arise from the violation of this code.~~

~~F. 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, 1999)~~

#### **75.0760 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: one inch equals 10 feet to one inch equals 30 feet) 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. (Ord. 1442, 1999; Ord. 1604 § 63, 2011)

### **PROCEDURAL AMENDMENTS**

*The Planning Commission is not recommending any amendments to 99.038*

#### **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 of four or more lots, non-residential buildings 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.

A. 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.

B. 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.

C. The letter shall be sent by certified mail, return receipt requested, to the president of the neighborhood association, and to one designee as submitted to the City by the neighborhood association, and shall be sent by regular mail to the other officers of the association and the property owners within 500 feet. If another neighborhood association boundary is located within the 500-foot notice radius, the letter shall be sent to that association's president, and to one designee as submitted to the City by the neighborhood association as well. 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 another time at the discretion of the association, and not less than 20 days from the date of mailing of the notice. If the meeting is scheduled as part of the association's regular monthly meeting, the letter shall explain that the proposal may not be the only topic of discussion on the meeting agenda. The letter shall encourage concerned citizens to contact their association president, or their association designee, with any questions that they may want to relay to the applicant.

Neighborhood contact shall be initiated by the applicant by mailing the association president, and to one designee as submitted to the City by the neighborhood association, a letter, return receipt requested, formally requesting, within 60 days, a date and location to have their required neighborhood meeting. The 60 days shall be calculated from the date that the applicant mails this letter to the association. If the neighborhood association does not want to meet within the 60-day timeframe, or if there is no neighborhood association, the applicant may hold a public meeting during the evening after 6:00 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 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.

D. On the same date the letters described in subsections A through C 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 inches by 17 inches 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.

E. An application shall not be accepted as complete unless and until the applicant demonstrates compliance with this section by including with the application:

1. A copy of the certified letter to the neighborhood association with a copy of return receipt;
2. 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;
3. A copy of the required posted notice, along with an affidavit of posting;
4. 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;
5. An audiotape of the meeting; and
6. 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 this section.

*Staff is recommending rewriting Section 99.038 as follows*

**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 of four or more lots, non-residential buildings 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.

A. 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.

**B. 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.**

**C. The letter shall be sent by certified mail, return receipt requested, to the president of the neighborhood association, and to one designee as submitted to the City by the neighborhood association, and shall be sent by regular mail to the other officers of the association and the property owners within 500 feet. If another neighborhood association boundary is located within the 500-foot notice radius, the letter shall be sent to that association's president, and to one designee as submitted to the City by the neighborhood association as well. 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 another time at the discretion of the association, and not less than 20 days from the date of mailing of the notice. If the meeting is scheduled as part of the association's regular monthly meeting, the letter shall explain that the proposal may not be the only topic of discussion on the meeting agenda. The letter shall encourage concerned citizens to contact their association president, or their association designee, with any questions that they may want to relay to the applicant.**

**Neighborhood contact shall be initiated by the applicant by mailing the association president, and to one designee as submitted to the City by the neighborhood association, a letter, return receipt requested, formally requesting, within 60 days, a date and location to have their required neighborhood meeting. The 60 days shall be calculated from the date that the applicant mails this letter to the association. If the neighborhood association does not want to meet within the 60-day timeframe, or if there is no neighborhood association, the applicant may hold a public meeting during the evening after 6:00 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 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.

D.— On the same date the letters described in subsections A through C 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 inches by 17 inches 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.

E.— An application shall not be accepted as complete unless and until the applicant demonstrates compliance with this section by including with the application:

1.— A copy of the certified letter to the neighborhood association with a copy of return receipt;

2.— 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;

3.— A copy of the required posted notice, along with an affidavit of posting;

4.— 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;

5.— An audiotape of the meeting; and

6.— 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 this section. (Ord. 1425, 1998; Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1590 § 1, 2009)

**B. Applicability.** This section shall apply to land use applications for:

1. Subdivisions;

2. Conditional use permits;
3. Multi-family projects greater than 5 units;
4. Planned unit developments;
5. Commercial, office, or non-residential developments greater than 1,500 square feet;
6. Zone changes that require a Comprehensive Plan amendment; and
7. Any other development permit if the Director deems neighborhood contact to be beneficial.

**C. Requesting and holding a meeting with the neighborhood association.**

1. Prior to filing an application for a development permit, the applicant must shall mail a letter requesting a meeting to ~~contact~~ the neighborhood association president and their designee for the area. ~~A copy of this request must also be sent by mail to the neighborhood association's designee.~~
2. The neighborhood association should reply to the applicant within 14 days and hold a meeting within ~~45~~60 days of the date of the applicant's initial contact, unless a later date is agreed upon by the applicant.
3. If the neighborhood association does not reply to the applicant's letter within 14 days, or hold a meeting within 45 days, the applicant may submit the application to the City and the neighborhood meeting requirement will be waived. If the neighborhood holds the meeting within the time frame, the applicant must attend the meeting. The neighborhood may schedule the meeting with its board, the general membership, or a committee. If the neighborhood cannot meet, or chooses not to meet, within the 60-day timeframe, or if there is no neighborhood association, the applicant may hold a public meeting open to the public during a weekday, after 6:00 pm, or on the weekend, not less than two weeks following the date the notice was mailed.
4. Notice.
  - a. No less than two weeks prior to the neighborhood meeting, the applicant shall mail written notice of the neighborhood meeting, to the neighborhood association president and their designee, and all property owners within 500-feet of the site.
  - b. No less than two weeks prior to the neighborhood meeting, the applicant shall post notice on the property subject to the proposed application stating the nature of the development proposal, the name of the applicant, and a telephone number where the applicant can be reached for additional information. The notice shall be placed in a location visible from the public right-of-way. If the site is not located adjacent to a through street, an additional sign shall be posted on the nearest through street. The site shall remain posted until the conclusion of the meeting.

**8. Copies of letters, the mailing list and affidavits of mailing and posting demonstrating compliance with the requirements of this section shall be submitted with the application for land use review. A copy of the certified letter to the neighborhood association with a copy of return receipt;**

**2. 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;**

**3. A copy of the required posted notice, along with an affidavit of posting; If the neighborhood association does not want to meet within the 60-day timeframe, or if there is no neighborhood association, the applicant may hold a public meeting during the evening after 6:00 p.m., or on the weekend no less than 20 days from the date of mailing of the notice.**

#### 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 application for a period of six months or less (Chapter [35](#) CDC).

b. A home occupation application (Chapter [37](#) CDC).

c. Access restrictions (Chapter [48](#) CDC).

d. A minor partition (Chapter [85](#) CDC).

e. A final subdivision plat (Chapter [89](#) CDC).

f. A final partition plat (Chapter [89](#) CDC).

g. A lot line adjustment (Chapter [85](#) CDC).

h. Enlargement or alteration of a non-conforming single-family structure containing a conforming use (Chapter [66](#) CDC).

**h. Enlargement or alteration of a non-conforming ~~single-family~~ structure ~~containing a conforming or~~ use (Chapter [66](#) CDC).**

i. Decide applications for a determination of unlisted parking requirements (Chapter [46](#) CDC).

j. A minor alteration to a historic landmark or a structure in the Historic District (Chapters [25](#), [26](#) CDC).

k. Parks Design Review, Class I (Chapter [56](#) CDC).

**k. Class I and II Parks Design Review, ~~Class I~~ (Chapter [56](#) CDC).**

l. Design Review, Class I (Chapter [55](#) CDC).

**~~l. Class I and II Design Review, ~~Class I~~ (Chapter [55](#) CDC).~~**

**m. Subdivision of 25 or fewer lots.**

m. A sign application (Chapter [52](#) CDC).

n. Sidewalk use permit (Chapter [53](#) CDC).

o. Flood management area permit (Chapter [27](#) CDC).

~~p. Erosion and sediment control permit (Chapter [31](#) CDC).~~

q. Tualatin River protection permit (Chapter [28](#) CDC).

r. Water resource area permit (Chapter [32](#) CDC).

s. Class I variance (Chapter [75](#) CDC).

t. Willamette River Greenway permit (Chapter [28](#) CDC).

u. Extensions of approval when the Planning Director acted as the initial decision-making authority.

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 (Chapter [66](#) CDC).

b. Non-conforming structure involving a non-conforming use (Chapter [65](#) CDC).

c. Non-conforming use of land (Chapter [67](#) CDC).

B. Planning Commission authority. 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. (Chapter [105](#) CDC).
  - b. A quasi-judicial zone change involving a concurrent application for a quasi-judicial Plan Map amendment as provided by CDC [99.030](#)(A) (Chapter [105](#) CDC).
  - c. The designation of an historic landmark.
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. A conditional use (Chapter [60](#) CDC).
  - d. Enlargement of a non-conforming use or alteration for a structure containing a non-conforming use (Chapter [66](#) CDC).
- ~~d. Enlargement of a non-conforming use or alteration for a structure containing a non-conforming use (Chapter [66](#) CDC).~~
- e. Enlargement or alteration of a non-single-family residential non-conforming use (Chapter [66](#) CDC).
- ~~e. Enlargement or alteration of a non-single-family residential non-conforming use (Chapter [66](#) CDC).~~
- f. Class II variance or special waiver (Chapter [75](#) CDC).
  - g. Subdivision (Chapter [85](#) CDC).
- ~~g. Subdivisions greater than 25 lots (Chapter [85](#) CDC).~~
- h. Planned unit development (Chapter [24](#) CDC).
  - i. Design review, Class II (Chapter [55](#) CDC).
  - j. Parks design review, Class II (Chapter [56](#) CDC).
  - k. Any matter not specifically assigned to another approval authority.
- ~~i. Design review, Class II (Chapter [55](#) CDC).~~

~~j. Parks design review, Class II (Chapter [56](#) CDC).~~

~~k. Any matter not specifically assigned to another approval authority.~~

- I. Extensions of approval when the Planning Commission acted as the initial decision-making authority.
- 3. Revoke or modify an approval as provided by CDC [99.330](#) for any application approved by the Planning Commission or Planning Director.
- 4. Make an unlisted use determination.
- 5. An appeal of the Planning Director's interpretation of the code pursuant to CDC [01.060](#).

## Chapter 55 Design Review

### 55.020 APPLICABILITY

A. 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. A. Sidewalks on private property.~~**<sup>1</sup>

**~~B. Transit shelters.~~**

**~~C. Fences and walls (at non-single-family/duplex residential sites).~~**

D. 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.).

...

O. Heating, ventilation, and air conditioners (HVAC) that are visible from **the public** right-of-way ~~or abutting property.~~<sup>1</sup>

Q. 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.

**B.** Class II design review applies to all uses/activities except those uses/activities listed under Class I design review, and the exceptions of CDC [55.025](#).

<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 redesign 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.

(Ord. 1547, 2007; Ord. 1604 § 50, 2011)

### **55.025 EXEMPTIONS**

The following activities are exempt from the provisions of this chapter:

A. Detached single-family residential construction;

B. Accessory structures;

C. One to two duplexes or single-family attached structures except as indicated otherwise in this chapter;

D. Architectural replacements in kind, or replacement of building materials that are equal or superior to existing materials (in terms of performance or quality) but that do not alter the architectural style of the structure. Retrofitted awnings, changes in color schemes, wall art, and freestanding statuary or art under five feet tall, **fences and walls, and transit shelters**, are exempt from design review, but shall be subject to ~~Planning Director review under the provisions of CDC 99.060(A)(2), prescribed conditions, and the approval criteria of~~ CDC 55.100(B)(6)(a) and **(i)**. (Ord. 1408, 1998; Ord. 1604 § 51, 2011)

**E. Sidewalks in the public right-of-way.**

...

### **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 CDC 99.120(B).~~

...

### **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 CDC [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 **through such means as setbacks, screening, landscaping, and other design features.**

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. The proposal will not have significant adverse impacts on the livability or usability of nearby properties due to issues such as, but not limited, to: noise, glare from lights, late-night operations, odors, litter, or privacy and safety issues.**

~~4. 5.~~ Adequate public facilities will be available to provide service to the property at the time of occupancy.

~~5. 6.~~ The applicable requirements of the zone are met, except as modified by this chapter.

~~6. 7.~~ The supplementary requirements set forth in Chapters 52 to 55 CDC, if applicable, are met.

~~7. 8.~~ The use will comply with the applicable policies of the Comprehensive Plan.

**9. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, or precludes the use of surrounding properties for permitted uses in the zone.**

#### **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 CDC [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 **through such means as setbacks, screening, landscaping, and other design features.**

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. The proposal will not have significant adverse impacts on the livability or usability of nearby properties due to issues such as, but not limited, to: noise, glare from lights, late-night operations, odors, litter, or privacy and safety issues.~~

4. Adequate public facilities will be available to provide service to the property at the time of occupancy.

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](#) CDC, if applicable, are met.

**7. The use will comply with the applicable policies of the Comprehensive Plan. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, or precludes the use of surrounding properties for permitted uses in the zone.**

## GREATER FLEXIBILITY

### General Commercial

#### 19.030 PERMITTED USES

The following uses are permitted outright in this zone:

...

**15. Hotel/Motel; including those operating as extended hour businesses.**

...

**25. Extended-hour businesses ~~that do not include the construction of a new building or expansion of an existing structure. CUPs shall be required when:~~**

**~~a. 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.~~**

...

**27. Lodge, fraternal, community center, and civic assembly.**

**28. Religious Institutions.**

#### 19.040 ACCESSORY USES

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

...

#### 19.060 CONDITIONAL USES

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

...

~~20. Transient lodging.~~

...

~~22. Religious institutions.~~

...

~~25. Lodge, fraternal, community center and civic assembly. (Ord. 1192, 1987; Ord. 1339, 1992; Ord. 1463, 2000; Ord. 1523, 2005; Ord. 1590 § 1, 2009; Ord. 1604 §§ 16, 17, 2011)~~

25. Extended hour businesses that include a new building or expansion of an existing structure.

**OFFICE BUSINESS CENTER**

**21.030 PERMITTED USES**

The following uses are permitted outright in this zone:

...

7. Hotel/Motel; including those operating as extended hour businesses.

...

14. Lodge, fraternal, community center and civic assembly.

15. Religious Institutions.

~~21.040 ACCESSORY USES~~

~~Accessory uses are allowed in this zone as provided by Chapter [34](#) CDC.~~

**21.060 CONDITIONAL USES**

The following uses are conditional uses which may be allowed in this zone subject to the provisions of Chapter [60](#) CDC, Conditional Use:

...

~~6. Transient lodging and associated convention facilities.~~

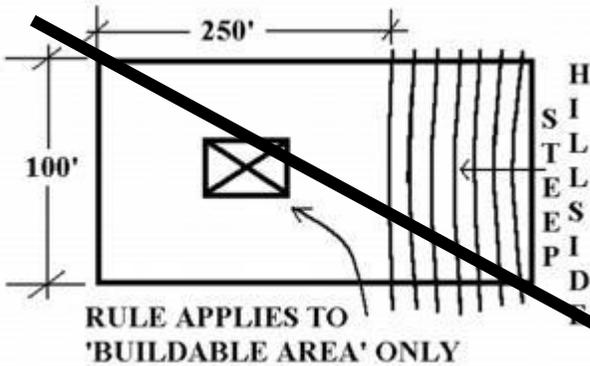
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R 40

**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.)~~

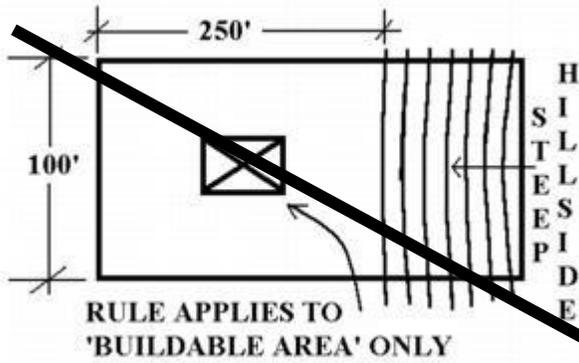


R20

**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.
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.)~~

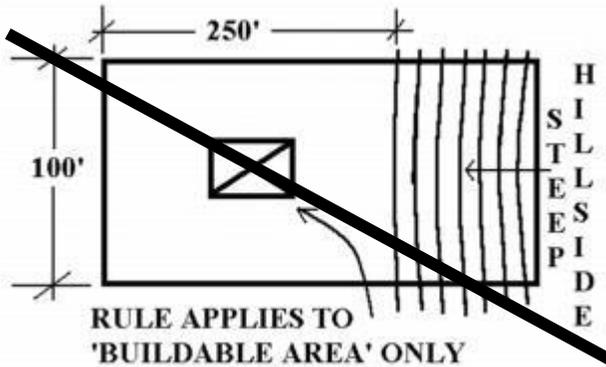


**R15**

**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 lands shall be less than two and one-half times the width, and more than an average depth of 90 feet. (See diagram below.)~~



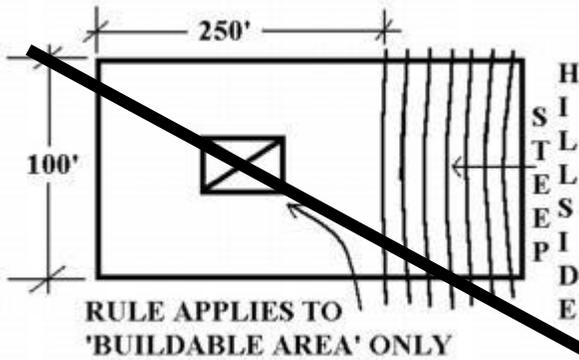
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**R10**

**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.
- ~~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.)~~



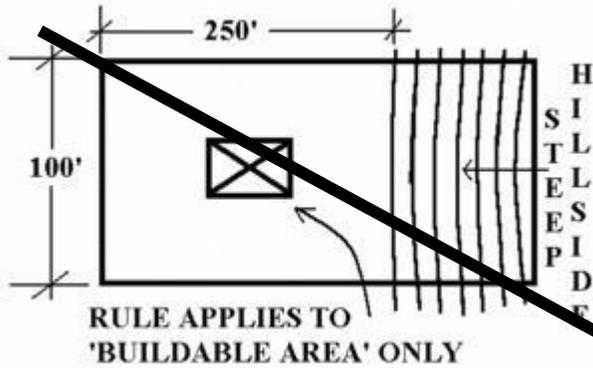
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## R7

### 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:

- A. The minimum lot size shall be:
  1. For a single-family detached unit, 7,000 square feet.
  2. For each attached single-family unit, 5,500 square feet. No yard shall be required between the units.
- B. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
- C. The average minimum lot width shall be ~~50~~ **35** feet.
- ~~D. 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.)~~



...

**R5**

**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:

A. The minimum lot size shall be:

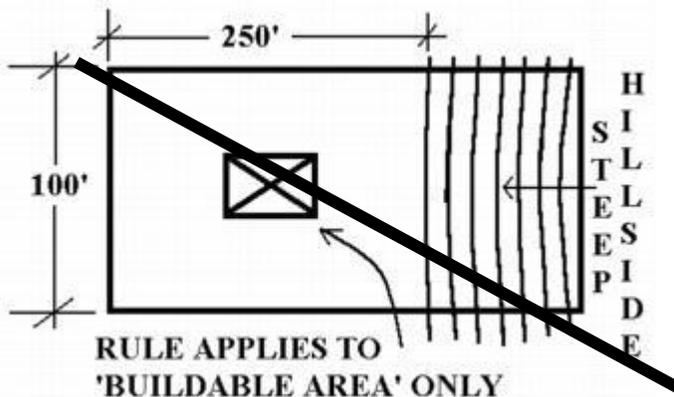
1. For a single-family detached unit, 5,000 square feet.
2. For each attached single-family unit, 4,500 square feet. No yard shall be required

between the units.

B. The minimum front lot line length, or the minimum lot width at the front lot line, shall be 35 feet.

C. The average minimum lot width shall be ~~50~~ 35 feet.

~~D. The minimum average lot depth comprising non-Type I and II lands shall be 90 feet. (See diagram below.)~~



...

**R4.5**

**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:

- A. The minimum lot size shall be:
  - 1. For a single-family detached unit, 4,500 square feet.
  - 2. For each attached single-family unit, 4,000 square feet.
  - 3. For a duplex, 8,000 square feet or 4,000 square feet for each unit.
- B. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
- C. The average minimum lot width shall be 50-35 feet.
- ~~D. The minimum average lot depth shall be 90 feet.~~

...

**R3**

**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:

- A. The minimum lot size shall be:
  - 1. For a single-family detached unit, 3,000 square feet.
  - 2. For each attached single-family unit, 3,000 square feet.
  - 3. For each multiple-family dwelling unit, 3,000 square feet.
- B. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
- ~~C. The minimum average lot depth shall be 75 feet.~~

**R2.1**

**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:

...

- C. The average minimum lot width shall be 50-35 feet.

**NEIGHBORHOOD COMMERCIAL, NC**

**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:

...2. The average minimum lot width shall be ~~50-35~~ 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 a front yard, 25 feet.

b. For an interior side yard, seven and one-half 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.~~ In addition, in order to mitigate adverse impacts, a landscape buffer not to exceed 50 feet and which may include fencing or walls may be required.

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.~~

**GENERAL COMMERCIAL**

**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.

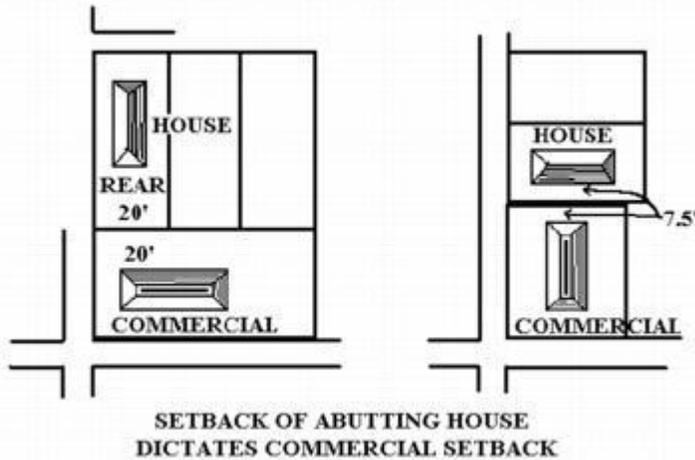
2. The average minimum lot width shall be ~~50-35~~ feet.

~~3. The average minimum lot depth shall not be less than 90 feet.~~

4. Where the use abuts a residential district, except as provided in CDC 58.090(C)(1), 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 five to seven and one-half foot setback shall apply to the commercial property. In addition, a buffer of up to 50 feet may be required.~~ In addition, in order to mitigate adverse impacts, a landscape buffer not to exceed 50 feet and which may include fencing or walls may be required.

4. Where the use abuts a residential district, except as provided in CDC 58.090(C)(1), 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 five to seven and one half foot setback shall apply to the commercial property. In addition, a buffer of up to 50 feet may be required.



...

**7.** For lot lines that abut an arterial, streets with an expected average daily trip total of less than 18,000 vehicles 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. 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.

**8.** For lot lines that abut streets with an expected average daily trip total of more than 18,000 vehicles, a minimum of 20 feet.

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.

## OFFICE BUSINESS CENTER

### 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, a minimum of~~ seven and one-half feet.

b. ~~For a side yard abutting a street, No minimum~~ 15 feet.

c. ~~For a rear yard, a minimum of 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. In addition, in order to mitigate adverse impacts, a landscape buffer not to exceed 50 feet and which may include fencing or walls may be required.~~

~~c. For a rear yard, a minimum of 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. d. For lot lines that abut ~~an arterial, streets with an expected average daily trip total of less than 18,000 vehicles~~ 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. 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.

~~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. d. Front yard, no minimum and a 20-foot maximum.~~ 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. 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.

e. For lot lines that abut streets with an expected average daily trip total of more than 18,000 vehicles, a minimum of 20 feet.

*Staff does not recommend including subsection (e) above*

~~e. For lot lines that abut streets with an expected average daily trip total of more than 18,000 vehicles, a minimum of 20 feet.~~

## CAMPUS INDUSTRIAL

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

...

~~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 CDC 99.080. Approval shall not be granted unless:~~

- ~~1. The criteria under Chapter 75 CDC for variances are satisfied; and~~
- ~~2. The purposes set forth under subsection A of this section are addressed and satisfied in the proposed design of the development.~~

**GENERAL INDUSTRIAL**

**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. In addition, in order to mitigate adverse impacts, a landscape buffer not to exceed 50 feet and which may include fencing or walls may be required.

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.

Chapter 46

~~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.

#### 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 CDC [46.150](#). (Ord. 1463, 2000)

...

#### 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.~~ Joint use of required parking spaces may occur where two or more uses on the same or separate sites are able to share the same parking spaces because their parking demands occur at different times. Joint use of required parking spaces is allowed if the following documentation is submitted in writing to the Planning Director as part of a building or zoning permit application or land use review:

- i. The names and addresses of the owners or tenants that are sharing the parking and the uses at those locations;
- ii. The location and number of parking spaces that are being shared;
- iii. An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and
- iv. A legal instrument such as an easement or deed restriction that guarantees access to the parking for all uses.

B. If a joint use arrangement is subsequently terminated, the requirements of this chapter will ~~thereafter~~ apply to each use separately. (Ord. 1547, 2007)

...

#### 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.

...

E. On-street parking along the immediate property frontage(s) may be counted toward the minimum parking requirement with approval from the City Engineer. 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.

#### 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.   |
| 2  | Two-family residences and duplexes.              | <b><u>1 off-street space for each dwelling unit; may or may not be in garage or carport. Same as single-family.</u></b>  |
| 3  | Multi-family residences:                         |  |
| a. | 500 square feet or less.                         | 1 <b><u>off-street</u></b> space for each unit.  |
| b. | 1 bedroom apartment.                             | 1.25 <b><u>off-street</u></b> spaces for each unit. Stacking one car behind the other is permitted only when the parking spaces are allocated to specific apartments.  |
| c. | 2 bedroom apartments.                            | 1.5 <b><u>off-street</u></b> spaces for each dwelling unit. Stacking one car behind the other is permitted only when the parking spaces are allocated to specific apartments.  |
| d. | 3 (or more) bedroom Apartment.                   | 1.75 <b><u>off-street</u></b> spaces for each dwelling unit. Stacking one car behind the other is permitted only when the parking spaces are allocated to specific apartments.   |
| e. | Visitor parking for multi-family residences.     | 1 off-street space for every 3 apartment units evenly distributed throughout the complex. These spaces shall be clearly identified and signed as visitor spaces only. This number may be reduced by 1 space for every 18 feet of project abutting public street frontage where on-street parking is allowed. |
| 4  | Residential hotel, rooming and boarding houses.  | <b><u>80 percent of the guest rooms or suites shall have 1 space each plus 1 space for each 2 employees. 1 parking space per 1,000 square feet of gross leasable area.</u></b>   |

- |   |   |   |
|---|---|---|
| 5 | Correction institutions.  | 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 <b>off-street</b> space for each 3 units plus 1 space for each employee <b><u>working during the time period with the greatest number of employees on site.</u></b> |

B. Public and semi-public buildings/uses.

- |     |    |  |  |
|-----|----|--|--|
| ... | 11 | Active parks, playgrounds.               | Two to 5 spaces for each acre of active use area other than athletic fields. <del>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.</del> |
|     | 12 | Athletic field (baseball, soccer, etc.). | 40 spaces per athletic field. <del>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.</del>   |
|     | 13 | Boat ramp.                               | 40 spaces per launch ramp (50 percent at 9' X 20'; 50 percent at 10' X 40' marked "trailers only").  |
|     | 14 | Senior center.                           | One space per 150 square feet and drop-off facility per CDC <a href="#">46.120</a> .   |
|     | 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.~~

C. Commercial.

...

- 5 Professional offices, banks and savings and loans, and government offices. One space for every ~~350~~370 sq. ft. of gross area.

F. Maximum parking. ~~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, p~~ Parking spaces (except for single-family and two-family residential uses) shall not exceed the minimum required number of spaces by more than 10 percent. ~~except by variance.~~

...

#### 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 eight 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 nine feet in width and 18 feet in length (nine feet by 18 feet). When multi-family parking stalls back onto a main driveway, the stalls shall be nine feet by 20 feet.

2. Disabled parking and maneuvering spaces shall be consistent with current federal dimensional standards and subsection B of this section 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.

...

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 four inches high located two feet back from the front of the parking stall. **Such parking spaces may be provided without wheel stops if the sidewalks or landscaped areas adjacent the parking stalls are two feet wider than the minimum width. Alternately, landscaped areas or sidewalks adjacent to the parking stalls without wheel stops shall be two feet wider.**

...

14. Directional arrows and traffic control devices which are placed on parking lots shall be identified ~~and installed.~~

55.100(B) Relationship to the natural and physical environment.

1. Tree protection.

~~a. **Heritage trees shall not be removed. The City Arborist may authorize the removal of a heritage tree(s) if diseased pursuant to the West Linn Municipal Code. 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.**~~

b. **Significant trees on Type I and II lands shall not be removed, except as permitted elsewhere in this CDC or the West Linn Municipal Code. The City Arborist may authorize the removal of significant trees on Type I and II lands if they are determined to be diseased, hazardous to public safety, inappropriate to the site at maturity or are not likely to survive construction impacts.**

c. **New development shall preserve existing trees where feasible and shall plant new trees if needed.**

a. **At least 20 percent of the significant trees on non-Type I and II Lands shall not be removed, unless the City Arborist determines these trees are hazardous to public health, safety or welfare. The City Arborist shall identify the tree(s) to be preserved.**

b. **Where it is determined by the City Arborist that 20 percent of the significant trees on non-Type I and II lands cannot be preserved, the applicant shall provide mitigation until the required preservation rate of 20 percent is met. Mitigation shall consist of replacing trees on an inch-for-inch basis (e.g., the removal of a 24-inch tree requires replanting of (6) 4-inch, (8) 3-inch, etc., trees of a species acceptable to the City Arborist). Replacement shall occur**

on-site unless the City Arborist determines that it would result in overplanting. In such cases, replacement must occur at an off-site location with the City Arborist's approval.

*Staff recommends not including last sentence to allow for payment in lieu of planting*

~~In such cases replacement must occur at an off-site location with the City Arborist's approval.~~

c. Tree preservation priority. Trees being preserved must be healthy, wind firm, and appropriate to the site at their mature size, as identified by a qualified professional arborist. The applicant shall preserve trees in the following order of priority:

i. Significant trees located adjacent to a water resource area.

ii. Significant trees clusters.

iii. Individual significant trees.

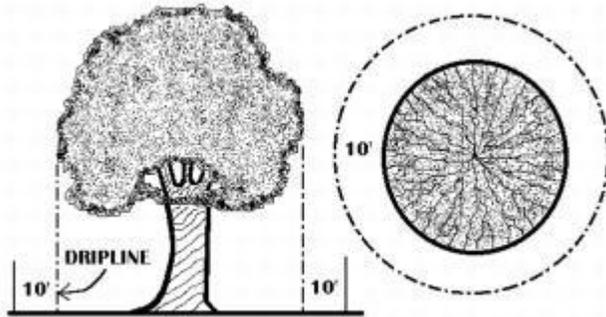
iv. Other individual trees or groves of trees as determined by the City Arborist.

d. For arterial and collector street projects, including Oregon Department of Transportation street improvements, the roads and graded areas shall avoid tree clusters where possible; however, the City Arborist may approve the removal of significant trees, tree clusters, and heritage trees loss may occur, however, but shall be minimized if necessary.

~~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 (B)(2)(a) through (f) of this section. 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.~~

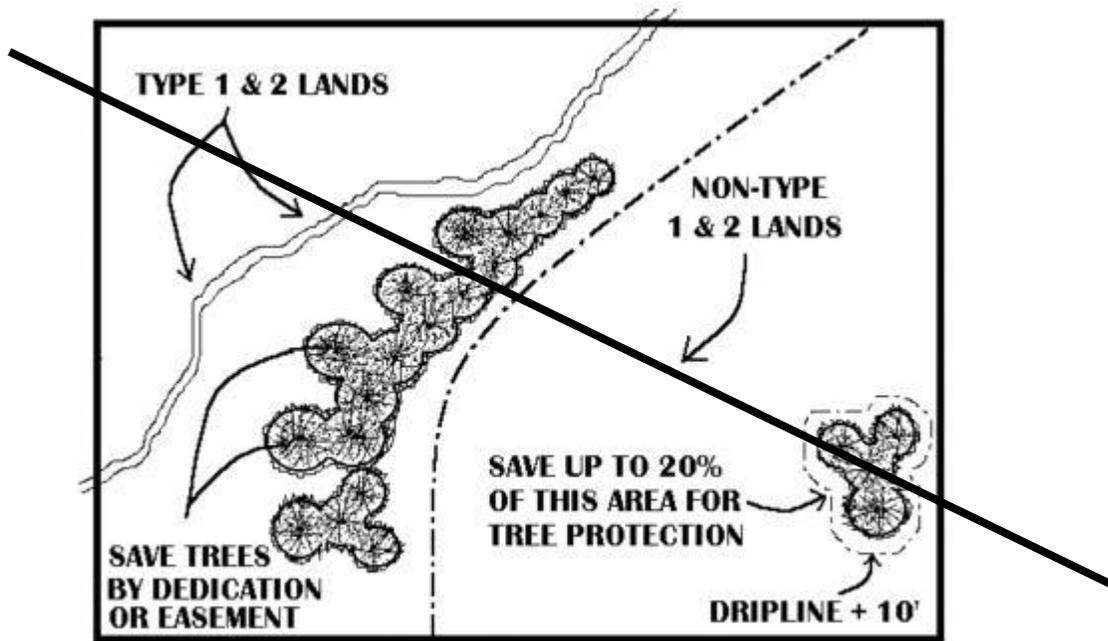
~~a. Non-residential and residential projects on Type I and II lands shall protect all heritage trees and all significant trees and tree clusters by either the dedication of these areas or establishing tree conservation easements. Development of Type I and II lands shall require the careful layout of 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)(2)(b) of this section. Exemptions of subsections (B)(2)(c), (e), and (f) of this section 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 (B)(2)(c), (e), and (f) of this section 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 subsection (B)(2) of this section.~~

~~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 four-inch). The mix of tree sizes and types shall be approved by the City Arborist.~~

### Chapter 2 DEFINITIONS

~~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.~~

52.210(K)(3) APPROVAL STANDARDS

....

3. Temporary signs. Temporary ~~A-frame sandwich board~~ signs are ~~permitted~~ **allowed without a permit; however, they and** shall be designed to be consistent with the ~~aforementioned~~ sign and type face provisions. (Ord. 1539, 2006; Ord. 1604 § 48, 2011; Ord. 1613 § 8, 2013)

52.109 EXEMPTIONS

....

**F. A-frame signs:**

**1. Signs in the Willamette Falls Drive Commercial District shall comply with standards in CDC 52.210(K).**

**2. All other A-frame signs for businesses are subject to the following standards:**

- a. The business is located in the General Commercial (GC) zoning district;**
- b. The sign is professionally manufactured, maintained and in good repair. No attachments to the sign are permitted;**
- c. No part of the sign may exceed 32” in width and 36” in height;**
- d. The sign shall only be displayed during times that the business is open to the public;**
- e. The location of the sign must maintain four (4) feet of unobstructed sidewalk width per 53.030(A);**
- f. One A-frame sign is permitted per business; and,**
- g. The sign must be located within 25 feet of an entrance to business being advertised.**

CDC

08.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

...

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. Subject to the nuisance provisions found in Section 5.400 et. seq. of the West Linn Municipal Code.

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

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

...

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. Subject to the nuisance provisions found in Section 5.400 et. seq. of the West Linn Municipal Code.

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

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

...

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. Subject to the nuisance provisions found in Section 5.400 et. seq. of the West Linn Municipal Code.

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

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

...

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. Subject to the nuisance provisions found in Section 5.400 et. seq. of the West Linn Municipal Code.

## 12.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

...

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. Subject to the nuisance provisions found in Section 5.400 et. seq. of the West Linn Municipal Code.

## 13.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

...

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. Subject to the nuisance provisions found in Section 5.400 et. seq. of the West Linn Municipal Code.

## REMOVAL OF INEFFECTUAL AND REDUNDANT CODE

### 99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES

...

B. Pre-application conferences.

...

5. 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;

a. Cite the ~~applicable federal and State laws and rules and the~~ Comprehensive Plan ~~policies and~~ map designation;

...

#### 55.120 SITE PLAN

The site plan shall be at the same scale as the site analysis (CDC [55.110](#)) and shall show:

...

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, including stormwater detention and treatment; and
7. Sign locations.

...

#### 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 CDC [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 Chapter [99](#) CDC, Procedures for Decision-Making: Quasi-Judicial, and the following:~~

~~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 CDC [99.110](#) and this chapter.~~

## 27.050 APPLICATION

Applications for a flood management area permit must include the following:

...

C. An application submittal that includes the completed application form, ~~and one~~**three** copies of written responses addressing CDC [27.060](#), [27.070](#), [27.080](#) (if applicable), and [27.090](#) (if applicable), ~~one~~**three** copies of all maps and plans at the original scale, ~~and three~~**one** copies of all maps and plans reduced to a paper size not greater than 11 inches by 17 inches, and a copy in a digital format acceptable to the City.

...

## 28.090 SUBMITTAL REQUIREMENTS: APPLICATION

...

C. An application for a protection area permit shall include the completed application and:

1. Narrative which addresses the approval criteria of CDC [28.110](#).
2. A site plan, with HCA boundaries shown and by low, moderate, high type shown (CDC [28.120](#)).
3. A grading plan if applicable (CDC [28.130](#)).
4. Architectural drawings if applicable (CDC [28.140](#)).
5. A landscape plan if applicable (CDC [28.150](#)).
6. A mitigation plan if applicable (CDC [28.160](#)).

One original application form must be submitted. ~~Three~~**One** copies at the original scale and ~~three~~**one** copies reduced to 11 inches by 17 inches or smaller of all drawings and plans must be submitted. ~~Three~~**One** 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~~**one copy of the complete application in a digital format acceptable to the City.** When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Director.

...

## 32.040 APPLICATION

...

C. The application shall include a site plan and topographic map of the parcel pursuant to CDC [32.060](#). The applicant shall submit ~~three~~**one** copies of all maps and diagrams at original scale and ~~three~~**one** copies reduced to a paper size not greater than 11 inches by 17 inches, and ~~an electronic copy of all maps on a compact disc~~**one copy in a digital format acceptable to the City.** The Planning Director may require the map to be prepared by a registered land surveyor to ensure accuracy.

...

## 52.104 APPLICATION

### A. Permanent sign permits.

...

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~~ **one** ~~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.
- 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 freestanding signs on abutting properties.

...

## 55.070 SUBMITTAL REQUIREMENTS

...

### 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 (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~~ **One** ~~copies~~ at the original scale and ~~three~~ **one** ~~copies~~ reduced to 11 inches by 17 inches or smaller of all drawings and plans must be submitted. ~~Three~~ **One** ~~copies~~ of all other items must be submitted. **The applicant shall also submit one copy of the complete application in a digital format acceptable to the City.** When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department.

...

## 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:

...

5. ~~One~~ **Three** ~~copies~~ at the original scale and ~~one~~ **three** ~~copies~~ reduced to 11 inches by 17 inches or smaller of all drawings and plans must be submitted. ~~One~~ **Three** ~~copies~~ of all other items must be submitted. **The applicant shall also submit one copy of the complete application in a**

**digital format acceptable to the City.** When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department.

#### 60.060 APPLICATION

...

- 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 CDC [60.070](#) and which sustains the applicant's burden of proof; and
  2. A site plan as provided by CDC [60.080](#).

One original application form must be submitted. ~~Three~~**One** copyies at the original scale and ~~three~~**one** copyies reduced to 11 inches by 17 inches or smaller of all drawings and plans must be submitted. ~~Three~~**One** copyies of all other items must be submitted. **The applicant shall also submit one copy of the complete application in a digital format acceptable to the City.** When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department.

...

#### 65.120 APPLICATION

...

- C. An application shall include the completed application form and:
1. A narrative which addresses the approval standards set forth in CDC [65.130](#) and which sustains the applicant's burden of proof.
  2. A site plan as provided by CDC [65.140](#).

One original application form must be submitted. ~~Three~~**One** copyies at the original scale and ~~three~~**one** copyies reduced to 11 inches by 17 inches or smaller of all drawings and plans must be submitted. ~~One~~**Three** copyies of all other items must be submitted. **The applicant shall also submit one copy of the complete application in a digital format acceptable to the City.** When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department.

...

#### 75.050 APPLICATION

...

- C. An application for a variance shall include the completed application form and:
1. A narrative which addresses the approval criteria set forth in CDC [75.060](#), and which sustains the applicant's burden of proof.
  2. A site plan as provided by CDC [75.070](#).

One original application form must be submitted. ~~One~~**Three** copyies at the original scale and ~~onethree~~**copyies** reduced to 11 inches by 17 inches or smaller of all drawings and plans must be

submitted. ~~One~~**Three** copy**ies** of all other items must be submitted. The applicant shall also submit one copy of the complete application in a digital format acceptable to the City. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department.

...

#### 85.150 APPLICATION – TENTATIVE PLAN

A. The applicant shall submit a completed application which shall include:

...

2. Copies of the tentative plan and supplemental drawings shall include ~~one~~**three** copy**ies** at the original scale plus ~~one~~**three** copy**ies** reduced in paper size not greater than 11 inches by 17 inches. The applicant shall also submit one copy of the complete application in a digital format acceptable to the City. When the application submittal is determined to be complete, additional copies may be required as determined by the Planning Department.

...

### Chapter 33

#### STORMWATER QUALITY AND DETENTION

##### Sections:

33.010 PURPOSE

33.020 APPLICABILITY

33.030 APPLICATION

33.040 APPROVAL CRITERIA

33.050 SITE PLAN

33.060 MAINTENANCE AND ACCESS REQUIREMENTS

33.070 PLANT MATERIAL FOR WATER QUALITY FACILITIES

##### 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. (Ord. 1463, 2000)~~

### **33.030 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 inches by 17 inches.~~

~~B. A site plan and topographic map consistent with CDC 33.050 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 33.070. (Ord. 1463, 2000)~~

### **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 CDC 33.070.~~

~~F. Projects must either stockpile existing topsoil for reuse 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. (Ord. 1463, 2000)~~

### ~~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 one inch equals 10 feet 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 zero to 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. (Ord. 1463, 2000)~~

### ~~33.060 MAINTENANCE AND ACCESS REQUIREMENTS~~

~~Maintenance and access requirements shall meet Public Works Design Standards. (Ord. 1463, 2000)~~

### ~~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 overplanting 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 91.010(C). The maintenance bond is required for any project involving stormwater quality and detention facilities. (Ord. 1463, 2000)~~

### ~~DIVISION 3. SUPPLEMENTAL PROVISIONS AND EXCEPTIONS~~

#### ~~Chapter 31~~

#### ~~EROSION CONTROL~~

#### ~~Sections:~~

#### ~~31.010 PURPOSE~~

#### ~~31.020 APPLICABILITY~~

#### ~~31.030 PERMIT REQUIRED~~

**~~31.040 APPLICATION~~**

**~~31.050 APPLICATION FOR SINGLE-FAMILY HOMES~~**

**~~31.060 APPROVAL CRITERIA~~**

**~~31.070 EROSION AND SEDIMENT CONTROL DESIGN STANDARDS~~**

**~~31.080 PENALTIES AND ENFORCEMENT~~**

**~~31.090 PROCEDURES AND APPROVAL PROCESS~~**

**~~31.010 PURPOSE~~**

~~The purpose of this chapter 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 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 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 inches by 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: one inch equals 10 feet to one inch equals 30 feet), which contains the following information:~~

~~a.—Existing and proposed contour lines at the following minimum intervals:~~

~~1) Two foot intervals for slopes zero to 25 percent; and~~

~~2) Five or 10 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 Chapter 32 CDC.~~

~~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 APPLICATION FOR SINGLE FAMILY HOMES~~

~~This applies only to the development of an individual, single residential lot one-half 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 1,000 square feet of disturbed vegetation. The plan shall include the following information:~~

- ~~A.—The plan view shall be no smaller than one inch equals 50 feet 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 percent 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 1st through September 30th, 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 1st through April 30th, the duration of soil exposure shall be kept to a maximum of seven days. All disturbed soil that remains exposed for seven 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 cleanup 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, stormwater 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 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 chapter 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 CDC 99.060.~~
- ~~2. The decision may be appealed to the Planning Commission as prescribed by CDC 99.240(A).~~

**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:

...

~~B. Plans and statements to demonstrate the ability of the project to meet Appendix 33 requirements of the Uniform Building Code.~~

**Chapter 02 DEFINITIONS**

...

~~Transient lodgings~~ **Hotel/Motel**. 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.