Commentary:

Proposed amendments to definitions are summarized below:

- Accessory dwelling unit – Clarified that ADUs include independent living facilities, separate from the primary dwelling.
- Adequate public facilities – Removed the second paragraph so as not to include standards in the definition. This is instead proposed as a new review criterion for Class II Design Review (CDC 55.100), Conditional Use Review (CDC Chapter 60), and Land Division (CDC 85.200).
- Bankfull stage – The current definition states that bankfull stage is "typically delineated in the field by…", which is discretionary and not sufficiently clear. The term is used only in Ch. 32 Water Resource Area Protection, and is noted in Ch. 2 as being interchangeable with the term "ordinary high water" (OHW). Therefore, the proposed solution is to remove the definition of bankfull stage and other instances of this term in the code, and to rely on OHW instead.
- Block length – Minor amendments to make the term clear and objective.
- Building line – Reworded to remove confusing language and to be more consistent with current practice.
- Carport – Added a new definition to clarify how this term is used in the code.
- DBH – See commentary with definition.
- Dwelling Unit and Family – Revised the definitions to remove occupancy limits related to familial/non-familial relations, as required by Oregon House Bill 2583 (2021). In the current CDC, the term "family" is defined in a way that limits the number of non-related people that can occupy a dwelling unit. This conflicts with HB 2583, which states that local governments cannot limit occupancy of a residential dwelling unit based on the familial or nonfamilial relationships among occupants. However, removing this limit also blurs the lines between a "dwelling unit" and the definition of "group residential." The proposed solution is to use the number of bedrooms as a proxy for number of persons; a dwelling unit would be limited to 8 bedrooms and anything over 8 bedrooms would be considered "group residential."
- Elevation, building – Added a new definition to clarify how this term is used in the code.
- Garage – Added a new definition to clarify how this term is used in the code.
- Grade – Revised the term to be more general. As currently worded, the definition creates potential conflicts/confusion with the way height is calculated.
- Group residential – Revised to remove references to occupancy by non-related persons and to define it as structures with 9 or more bedrooms. (See "Dwelling Unit and Family," above.)
- Local street – Revised to mirror the definition from the TSP for consistency as well as removing the implication for a cul-de-sac.
- Lot line, front – Removed discretion by allowing an applicant with a corner lot to decide which lot line is the front, in the case where it would otherwise be unclear.
- Lot line, rear – Added a new method for determining which is the rear lot line in the case of irregular shaped lots.
- Lot, through – Added a new definition. The term would replace the term "double-frontage lot" in Chapter 85, where it is described as "have frontage on a street at the front and rear property lines." Chapter 2 defines "double-frontage lot" more broadly to include corner lots as well.
- Lot width – Clarified the term by better defining how it is measured, and noting how average lot width is calculated. (Average lot width standards are specified in the base zone chapters.)

- Manufactured dwelling, Manufactured home, Mobile home, and Manufactured dwelling park – Updated or added these terms to be consistent with state statute (ORS 446.003).
- Marginal access street – Added this term, which is used in Chapter 85 but is not currently defined.
- Significant tree and Significant tree cluster – See commentary with definitions.
- Street – Revised the term to better distinguish public and private streets from other forms of access—for example, private tracts that provide only pedestrian access to a property.
- Through street – New definition added.
- Tree – See commentary with definition.
- Type I, II, II and IV lands – These definitions of land types do not always line up with the practical application. The definitions speak to lands containing X slope over more than 50 percent of the site, implying the entire project site is placed into a single land type category. However, standards such as the Design Review and PUD chapters break out the site into multiple land types in matters such as density transfer. The proposed solution is to remove the words "over more than 50 percent of the site" to better align the definition with the standards of various chapters.
- Other minor amendments for clarity.

Chapter 02

DEFINITIONS

Sections:

02.010 INTERPRETATION
02.030 SPECIFIC WORDS AND TERMS

02.010 INTERPRETATION

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

A. The word “shall” is mandatory, the word “may” is permissive.

B. The words “used” or “occupied” shall include the words “intended, designed, or arranged to be used or occupied.”

C. The word “lot” or “parcel” includes the future tense, the singular number includes the plural, and the plural number includes the singular.

D. Words not specifically defined herein shall have the meaning specified in Webster’s Third New International Dictionary of the English Language, Unabridged. (Ord. 1604 § 1, 2011; Ord. 1636 § 2, 2014; Ord. 1732 § 2 (Exh. A), 2022)

02.030 SPECIFIC WORDS AND TERMS

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

Accessory dwelling unit (ADU)**.** Attached or detached dwelling unit which is secondary to the primary dwelling unit and intended to provide convenient and affordable housing opportunities. The unit includes its own independent living facilities with provisions for living, sleeping, eating, cooking, and sanitation, and is designed for residential occupancy independent of the primary dwelling unit.

Accessory structure**.** A subordinate structure with a maximum area of 1,500 square feet, except for agricultural buildings, located on a lot or parcel with a principal use, the use of which is clearly incidental to and associated with the principal use. Examples of accessory structures include, but are not limited to, the following:

1. Greenhouse or hothouse;
2. Swimming pools;
3. Children's playhouses and structures;
4. Sheds;
5. Barns;
6. Gazebos;
7. Solar and wind energy systems;
8. Garages;
9. Dog houses for up to four dogs, bird feeders, or other pet shelters;
10. Appurtenances such as mailboxes and heat pumps; and
11. Similar structures as determined by the Planning Director.

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

Acres, gross**.** All of the land area owned by the applicant under consideration. See "Tract."

Acres, net**.** The total gross acres less the public right-of-way and other acreage deductions, ~~as applicable~~as specified in this code.

Adequate public facilities. Public facilities that must be adequate for an application for new construction, remodeling, or replacement of an existing structure to be approved are transportation, water, sewer, and storm sewer facilities. To be adequate, on-site and adjacent facilities must meet City standards, and off-site facilities must have sufficient capacity to (1) meet all existing demands, (2) satisfy the projected demands from projects with existing land use approvals, plus the additional demand created by the application, and (3) remain compliant with all applicable standards.

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

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

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

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

Agricultural services**.** Establishments or places of business engaged in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include tree and lawn service firms.

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

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

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

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

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

Anchor-secured docks**.** Docks that are held in place by cables that are then attached to the riverbed or shoreline by an anchoring system.

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

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

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

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

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

Antenna(s)**.** A device commonly in the form of a metal rod, wire panel, or dish, for transmitting or receiving electromagnetic radiation. An antenna is typically mounted on a supporting tower, pole, mast, or building.

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

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

Approval or approved**.** A determination by the City of West Linn approval authority that the provisions of this code have been met.

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

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

Authorized area**.** The area within the preference rights area, as determined by DSL, where the applicant may place their water-dependent structure (e.g., dock) is called the authorized area. (Also see "Preference rights" definition.)

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

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

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

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

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

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

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

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

~~Bankfull stage. The level of stream flow where water reaches or exceeds the top of channel or otherwise inundates the adjacent floodplain on a frequency of approximately every 1.5 to two years. This is sometimes known as ordinary high water (OHW). In some high gradient or incised streams, the 1.5- to two-year floods may be restricted to the deepened channel. Conversely, in low gradient streams, where the grades adjacent to the streams are in the zero to 15 percent range, the bankfull stage/OHW is likely to be at the outer edge of adjacent floodplain areas. The bankfull stage or OHW level of stream systems is typically delineated in the field by:~~

~~1. The outer extent of facultative or obligate plants;~~

~~2. The upper elevation of float debris (litter of branches, twigs and organic material);~~

~~3. The lower elevation of woody vegetation (e.g., willow and alder species);~~

~~4. Textural change of depositional sediment or changes in the character of the soil (e.g., from silts, sand, cobble and gravel to upland soils);~~

~~5. Top of the zone of washed or exposed roots;~~

~~6. A clear natural line impressed on the bank; or~~

~~7. A break or change in slope angle.~~

~~For the purpose of this code, the terms "bankfull stage" and "OHW" may be used interchangeably and are illustrated and further defined in Table 32-3.~~

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

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

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

Block length**.** The distance measured along all that part of one side of a street which is (1) between the centerline of two intersecting or intercepting streets~~,~~; or (2) between an intersecting or intercepting street~~, undivided acreage, or other major barrier~~ and the end of a stubbed or dead-end street.

Boat house**.** Roofed structure to store and protect a boat. Boat houses may also include roofed open-sided boat shelters.

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

Building line. A line running parallel to a lot line, that is the same distance from the lot line as the closest portion of a building on the site. ~~on a plat indicating the limit beyond which buildings or structures may not be erected.~~

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

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

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

Carport. A structure consisting of a roof and its supports that is entirely open on two or more sides and that is intended for shelter of vehicles.

Certified child care center**.** A certified child care center is regulated under OAR 414-300-0000 through OAR 414-300-0415. The use is defined in OAR 414-300-0005 generally as follows: The child care business is in a facility that has met zoning, occupancy, and building code requirements; usually a commercial building. The maximum number of children allowed in care depends on the square footage of the building, number of qualified staff, and various other factors. The Office of Child Care license reflects maximum number of children allowed in care at any one time.

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

Channel**.** The channel is the physical confine of a stream within the ~~"bankfull stage" and~~ "OHW."

Child care**.** Duties and rules of the State of Oregon Office of Child Care are identified in ORS 329A.010 through 329A.030. "Child care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of the day, in a place other than the child's home, with or without compensation. Child care is exempt from Office of Child Care regulation if it provides care for three or fewer children, not including their own children; for any number of children from the same family, not including their own children.

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

City Engineer**.** The City Engineer of West Linn, Oregon, or their authorized agent.

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

Co-location**.** The placement of two or more antenna systems or platforms by separate Federal Communications Commission (FCC) license holders on a structure such as a support structure, building, water tank, or utility pole.

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

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

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

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

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

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

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

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

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

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

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

Cottage cluster**.** A grouping of at least four detached dwelling units per acre. Dwelling units have a building footprint of less than 900 square feet per dwelling unit that includes a common courtyard with at least 150 square feet per cottage. Units may be located on a single lot or parcel, or on individual lots or parcels. A maximum of eight cottages shall be permitted per courtyard. For example, 150 square feet of common courtyard area for eight cottages equals 1,200 square feet of common courtyard area.

Cottage cluster project**.** A development site with one or more cottage clusters. Each cottage cluster as part of a cottage cluster project must have its own common courtyard.

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

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

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

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

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

Commentary:
The term DBH—Diameter at Breast Height—is a common measurement for the size of tree trunks. It is used in the proposed new definitions for "significant tree" and "significant tree cluster." Refer to those terms for additional commentary. The proposed DBH definition is consistent with the definition used by the International Society of Arboriculture.

DBH. Diameter at Breast Height is the diameter of a tree at 4.5 feet (54 inches) above the highest natural ground level at the base of the trunk.

Dedication**.** The legal conveyance of land, typically from a private property owner to the City.

Developer**.** The owner of land proposed to be developed or partitioned, or representative. Consent shall be required from the legal owner of the premises for any proposed development or division of land as provided in this code. Within the flood management area, this term shall include storage of equipment or materials.

Development**.** Any manmade change defined as the construction of buildings or other structures, mining, dredging, paving, filling, grading or site clearing, and grubbing in amounts greater than 10 cubic yards on any lot, parcel, or lot of record. Within the flood management area, this term shall also include storage of equipment or materials. Within the Willamette and Tualatin River Protection Areas, this term shall also include any change of use or intensification of the use of land or water, including construction of structures (such as houses, structures, docks and associated pilings or piers), significant grading, or removal or addition of vegetation and groundcover unless specifically exempted per CDC 28.040. Development shall not include grading, site clearing, grubbing or filling where it is part of a submitted land use application that includes the restoration of grades and replanting the affected area with native vegetation per a re-vegetation plan. This definition is distinct and separate from previously disturbed areas (PDAs) and temporarily disturbed areas (TDAs).

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

Disturbance**.** For the purpose of this code, the terms "disturbance" and "development" may be used interchangeably.

Disturbed areas**.** Areas that have been subjected to disturbance or development. For the purpose of this code, the terms "disturbance" and "development" may be used interchangeably.

Division of land**.** The process of dividing a tract, lot or parcel by subdividing or partitioning. See "Partition land" and "Subdivide land." A division of land shall be deemed to have occurred at the time when the final approved plat is recorded with the County Recorder's office.

Dock**.** Dock/float means an individual secured and stationary or floating structure (other than a mooring buoy) used exclusively for mooring boats and for similar uses. Dock can also refer to water-dependent uses generically unless otherwise indicated from the context.

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

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

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

DSL**.** Department of State Lands.

Duplex residential units**.** Two attached or detached dwelling units on a lot or parcel in any configuration.

Dwelling unit**.** ~~One or more rooms~~ A single unit containing 8 or fewer bedrooms designed for residential occupancy by one family for living purposes providing complete, independent living facilities ~~for one or more persons~~ including permanent provisions for living, sleeping, eating, cooking and sanitation.

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

Eating and drinking establishments**.** Establishments or places of business that are not drive-through restaurants and primarily engage in the sale of prepared or produced food and beverages for on-premises consumption, on-premises sale, or take out service. On-premises sales do not include sales to secondary retailers or wholesalers. Typical uses include, but are not limited to: fast food establishments, restaurants, delicatessens, brew-pubs, coffee shops, taverns, bars and lounges.

Elevation, Building. The entire side of a building, from the grade adjacent to that side of the building to the roofline, as viewed perpendicular to the walls on that side of the building.

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

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

Enhancement**.** See "Mitigation."

Ephemeral streams**.** A stream or reach of a stream which flows only in direct response to precipitation and whose channels are always above groundwater or water table levels. Ephemeral streams typically drain sub basins of under 20 acres, have slopes of less than 10 percent as measured laterally from the stream thread and often traverse surficially with no recognizable drainage channel.

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

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

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

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

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

Extended-hour businesses**.** Businesses which are open to the public 17 or more hours a day on any given day of the week, or open between midnight and 6:00 a.m., including, but not limited to: eating and drinking establishments, convenience sales and personal services, drive-through restaurants, amusement enterprises, food and beverage retail sales, and general retail sales.

Fact-finding body**.** A body sitting for the purpose of determining the facts. The decision of the body is not discretionary.

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

Family day care**.** Duties and rules of the Office of Child Care are identified in ORS 329A.010 through 329A.030. A certified family child care home or registered family child care home is identified in ORS 329A.250 and considered a residential use pursuant to ORS 329A.440; the use is defined as:

Certified Family Child Care Home. A certified family child care home, usually the provider's home, providing child care for a maximum of 12 children (16 children with prior approval by the Office of Child Care). The provider's own children are included in the determination of caregiver/child ratio and group size. A city may impose zoning conditions on the establishment and maintenance of a certified family child care home in an area zoned for residential or commercial use if the conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone.

Registered Family Child Care Home. A child care facility in the provider's home. The child care business holding a registration with the Office of Child Care may care for a maximum of 10 children, including the provider's own children. Of the 10 children:

1. No more than six may be younger than school age; and
2. No more than two may be 24 months of age or younger.

A city may impose zoning conditions on the establishment and maintenance of a registered family child care home in an area zoned for residential or commercial use if the conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone.

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

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

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

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

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

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

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

FLOODPLAIN DEFINITIONS.

Appeal**.** A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

Area of shallow flooding**.** A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard**.** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the flood insurance rate map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, or AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard." (Also see city definition for "floodplain.")

Base flood**.** The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE)**.** The elevation to which floodwater is anticipated to rise during the base flood.

Basement**.** Any area of the building having its floor subgrade (below ground level) on all sides.

Below-grade crawlspace. An enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lower adjacent exterior grade. The height of the crawlspace, as measured from the interior grade of the crawlspace to the top of the crawlspace foundation, may not exceed four feet at any point.

Design flood elevation. The elevation of the 100-year storm as defined in FEMA flood insurance studies or, in areas without FEMA floodplains, the elevation of the 25-year storm, or the edge of mapped floodprone soils or similar methodologies.

Development**.** Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

FEMA (Federal Emergency Management Agency). The agency which administers the National Flood Insurance Program.

Flood elevation study**.** See "flood insurance study."

Flood or flooding.

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:

    a. The overflow of inland or tidal waters.

    b. The unusual and rapid accumulation or runoff of surface waters from any source.

c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subsection (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)(a) of this definition.

Flood insurance rate map (FIRM)**.** The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a digital flood insurance rate map (DFIRM).

Flood insurance study (FIS)**.** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood management areas. All lands contained in the flood management area overlay zone, which include: areas inundated by the base flood, flood area, and floodway as shown on the FEMA flood insurance map dated June 17, 2008; the area of inundation for the February 1996 flood; and lands which have documented evidence of flooding.

Floodplain. Land subject to periodic flooding, including areas inundated by the one percent chance flood (base flood) as mapped by FEMA, or other substantial evidence of actual flood events, such as areas inundated by the 1996 flood.

Floodproofing**.** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodway**.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "regulatory floodway."

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

Functionally dependent use**.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

Highest adjacent grade**.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure**.** Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior; or

b. Directly by the Secretary of the Interior in states without approved programs. (Also see city's "historic definitions.")

Lowest floor**.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

Manufactured dwelling**.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home."

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

Mean sea level**.** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

New construction**.** For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by West Linn and includes any subsequent improvements to such structures.

Recreational vehicle**.** A vehicle which is:

1. Built on a single chassis;

2. Four hundred square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special flood hazard area**.** See "area of special flood hazard" for this definition.

Start of construction**.** Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure**.** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Substantial damage**.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement**.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

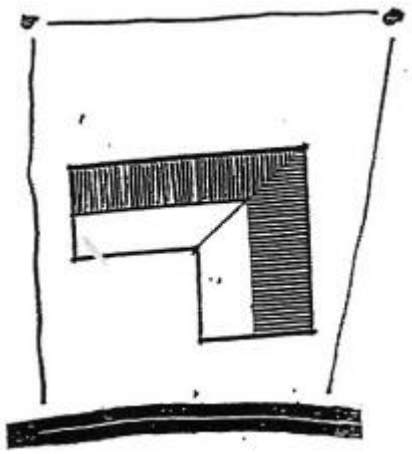
2. Any alteration of a "historic structure"; provided, that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance**.** A grant of relief by West Linn from the terms of a floodplain management regulation.

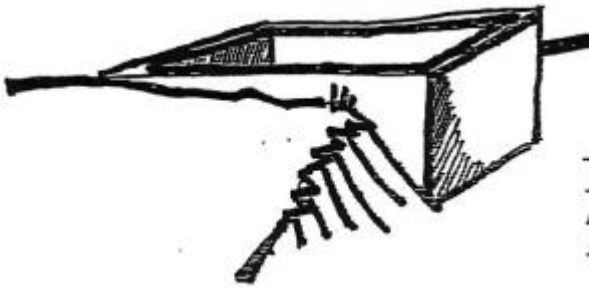
Violation**.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this code is presumed to be in violation until such time as that documentation is provided.

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

Floor area ratio (FAR)**.** The FAR is that percentage of the total lot size that can be built as habitable space. A FAR of 0.45 means that the square footage of the lot is multiplied by 0.45 to yield the total habitable square footage of the house including accessory dwelling units. For example, on a 10,000-square-foot lot, an FAR of 0.45 will allow a 4,500-square-foot house (10,000 X 0.45 = 4,500). The FAR does not include or apply to attached garages. The FAR does not apply to detached garages, accessory dwelling units and accessory structures except that these detached structures may not individually exceed the height or square footage of the principal dwelling. The FAR does not include basement areas that average less than 50 percent of the basement perimeter exposed above grade. Uninhabitable space such as crawlspaces, attics, and spaces designed under the Flood Management Area Permit program to allow the passage of floodwaters are also exempt.

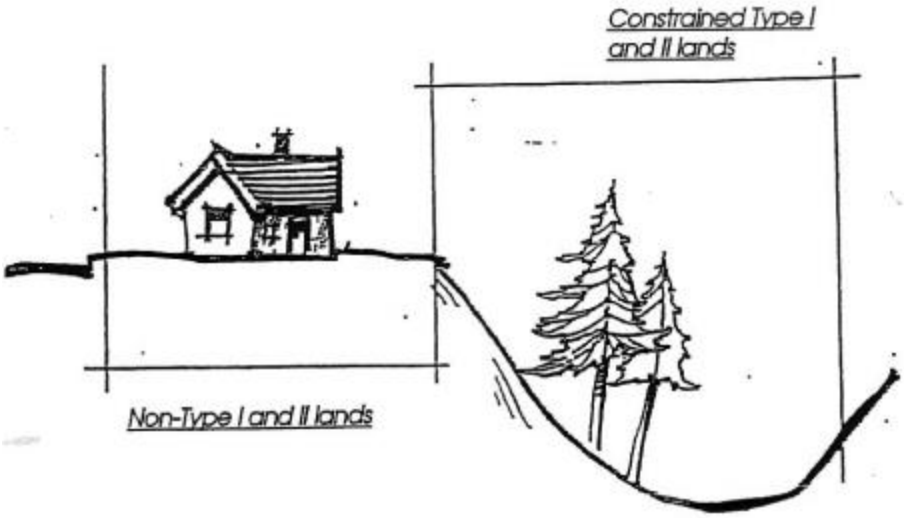


FAR applied to a 10,000-square-foot lot yields a 4,500-square-foot house. The bigger the lot, the bigger the house. FAR excludes attached garage, detached garages and accessory structures, uninhabitable spaces, basements predominantly below grade, and spaces required to meet Flood Management Permit standards.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



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

Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.



Type I and II lands are excluded from FAR calculations. But the property owner is guaranteed at least a FAR of 0.30 (30 percent) for the total site including Type I and II lands.

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

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

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

Functions and values**.** Ecological functions describe the numerous functions that WRAs perform including water quality improvement, floodwater storage, terrestrial or aquatic habitat, aquifer recharge, etc. WRA values express the relative efficacy of the resource in meeting specific functions.

Gangway/Ramp**.** A variably sloped structure intended to provide pedestrian access from the shore to a dock.

Garage. A structure or portion thereof designed and intended for use for parking or storage that is within an enclosed space and has at least one door for vehicles to enter and exit.

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

Glare**.** Light that causes visual discomfort or disability, and the wattage and/or light distribution is excessive for the purposes for which the illumination is necessary.

Grade**.** ~~The finished ground level adjoining the building at all exterior walls.~~ The final elevation of the ground.

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

Ground disturbing activity**.** Any activity that exposes soil through the use of motorized equipment.

Group residential**.** The residential occupancy ~~of living units by groups of more than five persons who are not related by blood, marriage, or adoption~~ a dwelling containing 9 or more bedrooms, and where communal kitchen/dining facilities are provided. Typical uses include occupancy of retirement homes, boarding houses, cooperatives, and halfway houses, but excluding residential facility and residential home as specified below.

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

Habitat conservation areas (HCA)**.** Areas identified on the Habitat Conservation Areas Map and subject to the standards found in Chapter 28 CDC, Willamette and Tualatin River Protection.

Habitat Conservation Areas Map ("HCA Map")**.** A map adopted by the Metro Council September 29, 2005, amended December 8, 2005, and which was incorporated into the CDC by the West Linn City Council on September 25, 2008. The HCA Map, as amended by the City, serves as the official map used by the City to determine the location and designations of Habitat Conservation Areas regulated under Chapter 28 CDC, Willamette and Tualatin River Protection.

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

HISTORIC DEFINITIONS. The following terms and phrases shall have the meanings given to them below with regard to Chapter 25 CDC, Historic Resources:

Addition. Expansion or physical modification of the exterior of a historic resource that includes the expansion of the building footprint. Additions do not include painting and color selection or ordinary maintenance or repair of the resource.

Alteration. Physical modification of the exterior of a historic resource that does not include an expansion of the building footprint. Partial demolition of a structure is an alteration. Alterations do not include painting and color selection or ordinary maintenance or repair of the resource.

Building. A structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and barn.

Demolition. The entire removal of a structure. Demolition of a portion of a structure is an alteration.

Demolition by neglect. (1) The deterioration of a building when routine or major maintenance is not performed, (2) the property is not properly secured against entry by vandals or unauthorized person or persons without right to legal access, and the occurrence of such entry is evident, (3) and/or the integrity of the building is compromised as a result of improper construction activities. This includes any structural deficiency or a deficiency in a building part, which

when left unrepaired could lead to deterioration of the building's structural frame, potentially beyond the point of repair.

Design exception. A discretionary decision to permit modification of a design standard or an alternative to a standard within Chapter 58 CDC (Willamette Falls Drive Commercial Design District), based on specific findings delineated in the chapter.

Eligible contributing. A building, structure, object, or site originally constructed within the applicable period of significance that retains and exhibits sufficient integrity (location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history.

Exterior. The outside portions of a structure, including the materials, equipment and components which constitute the walls, roof, foundation, stairs, windows, doors, support elements, decking, attached projections and other external parts and features.

Facade, primary. That part of a historic resource where the main entry is located. On a corner lot each wall fronting a street shall be considered a primary facade.

Facade, secondary. An exterior wall not fronting a street.

Historic district. A geographically definable area containing a significant concentration, linkage, or continuity of buildings, structures, sites, or objects united historically or aesthetically by plan or physical development, and listed as a historic district in the National Register or designated as a local historic district by the City Council. A historic district may also comprise individual elements separated geographically but linked by association or history.

Historic landmark. A building, structure, site, or object listed individually on the National Register or designated as a local historic landmark by the City Council.

Historic preservation. Preservation, restoration, or rehabilitation of a historic resource.

Historic resource. A historic landmark or historic district listed on the National Register or designated as a local historic landmark or historic district by the City Council.

Massing. The perception of the general shape, form, and size of a building in three dimensions, not just its outline from a single perspective.

National Register of Historic Places. The nation's official list of buildings, structures, sites, objects, and districts important in the nation's history and maintained by the National Park Service in Washington, D.C., and hereinafter referred to as the "National Register."

Non-contributing. A building, structure, object, or site originally constructed within the applicable period of significance that does not retain or exhibit sufficient integrity (due to its location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history. These properties do not strengthen the historic integrity of an existing or potential historic district in their current condition.

Not in period. A building, structure, object, or site that was originally constructed outside a historic district's applicable period of significance.

Not in period compatible. A building, structure, object or site built after the period of significance with a degree of craftsmanship that is compatible with the architecture of the district.

Not in period noncompatible. A building, structure, object or site built after the period of significance that is generally incompatible with the architecture of the district.

Object. A material thing of functional, aesthetic, cultural, historic or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Original. A component that was constructed on or added to the building during the period of significance.

Period of significance. The dates stated in the official designation of a historic district that identify the period or periods of time when the geographic area attained the characteristics which qualify it for designation as a historic district.

Primary structure. The principal structure on a site, typically a residence or a commercial building.

Property pending designation. A building, structure, site, or object for which a formal application for local historic designation has been initiated, or for which an application has been submitted to the State Historic Preservation Office for nomination to the National Register, or a building, structure, site, or object within a proposed historic district for which a formal application for historic designation has been submitted, but which has not yet been reviewed by the Keeper of the National Register, or has been reviewed by the Keeper and determined to be "eligible."

Rehabilitation. The process of returning a historic resource to a state of utility through repair, alterations, and additions, which makes possible an efficient use while preserving those portions or features of the historic resource that convey its historic significance.

Scale. The proportions of a building in relation to its surroundings, or the size of parts or details of the building, particularly in relation to the size of a person or adjacent structure. Scale refers to the apparent size, not the actual size.

Site. The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

Visible. The resource or a portion of the resource that can be seen from the public right-of-way. For example, typically the primary facade of a historic resource can be seen from the public right-of-way.

Western false front. An architectural style that was intended to create visual continuity and a prosperous urban atmosphere during the early settlement period of American western towns. Defining characteristics include:

1. The street facing facade(s) rises to form a parapet (upper wall) which hides most or nearly all of the roof;

2. The roof is almost always a front gable, though gambrel and bowed roofs are occasionally found;

3. The street facing facade(s) may exhibit greater ornamentation than other sides of the building.

Home occupation**.** Any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit. Standards for home occupations are set forth in Chapter 37 CDC.

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

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

Hotel/motel**.** Establishments primarily engaged in the provision of lodging on a temporary basis with incidental food, drink, and other sales and services intended for the convenience of guests.

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

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

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

Intentional**.** To act with a conscious objective to cause the result achieved or to engage in the conduct.

Intermittent streams**.** A stream that flows only during certain times of the year when it receives water from springs or surface sources such as precipitation. The term may be restricted to a stream that flows continuously during periods of at least one month; also may be a stream that does not flow continuously as when water losses from evaporation or seepage exceed the available stream flow. For the purpose of this code, intermittent and perennial streams are protected identically.

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

Joint-use boat docks**.** These structures are designed for, and shall be used exclusively by, two or more riverfront property owners. Typically, two adjacent riverfront property owners share the joint dock. Owners of non-riverfront property may be co-applicants for a joint boat dock.

Knowing**.** To act with an awareness of the action committed.

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

Large wood (recruitment)**.** Large wood comprises trees that have fallen down in the WRA due to chronic mortality, disease, windstorms, landslides, erosion, flooding, etc., which in turn may provide aquatic and terrestrial habitat opportunities, modify stream velocities, channel depths and flow patterns and stabilize banks in the WRA. "Large wood recruitment" describes forested WRAs of sufficient size that have the potential to supply these trees which ultimately become "large wood."

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

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

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

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

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

Local street**.** ~~A street which functions primarily to provide access to abutting land, serving local traffic movements and not intended to accommodate through traffic.~~ A street designated in the functional class system that's primary purpose is to provide access to land, services, and other streets as opposed to enhancing mobility. These streets typically have low volumes and are very short in relation to collectors and arterials

Lodge, fraternal, community center and civic assembly**.** Meetings and activities primarily conducted for the members of a particular group. Excluded from this use type are uses classified as "group residential," "residential

care facilities," "senior centers," and "transient lodging." Typical uses include meeting places for civic clubs, community centers, lodges, or fraternal or veteran organizations.

Lot**.**

1. A single unit of land that is created by a subdivision of land.

2. As a general term (lot) is retained to define characteristics or dimensional attributes of a lot or parcel (i.e., flag lot, lot area, lot coverage, lot line).

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

Lot, coverage**.** The area covered by a building or buildings, expressed as a percentage of the total land area. For residential uses, these buildings shall include the principal residence or house, any accessory dwelling unit, and accessory structures requiring a building permit.

Lot, depth**.** The average horizontal distance between the front and rear property lines.

Lot, double-frontage. A unit of land having frontage on two streets.

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

Lot line, front**.**

1. The lot line(s) common to the lot and a street (other than an alley) that separates the lot from the street.

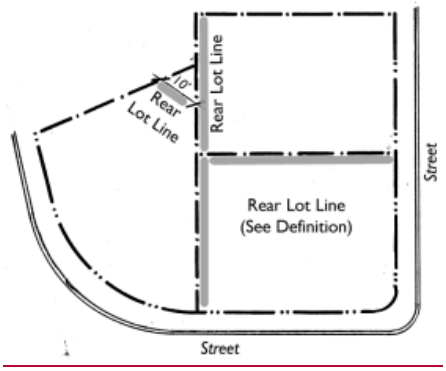
2. For a corner lot, the shortest lot line along a street (other than an alley) that separates the lot from the street~~, or as determined by the City~~. If two or more street lot lines are of equal length, then the applicant or property owner can choose which lot line is to be the front.

Lot line, rear.

1. A line separating one lot from another on the opposite side of the lot from the front lot line.

~~2. For a corner lot, the line opposite the front lot line, as determined by the City.~~

2. In the case of an irregular or triangular shaped lot, an imaginary lot line ten feet in length shall be drawn within the lot parallel to and at the maximum distance from the front lot line.



3. In the case of a double-frontage lot that is not a corner lot, there is no rear lot line.

Lot line, side**.** Any lot line that is not a front or rear lot line. An interior side lot line is a lot line separating more than one lot, or separating a lot and an alley. An exterior side lot line is a lot line separating a lot and a street other than an alley.

Lot of record**.** A unit of land created as follows:

1. A lot in an existing, duly recorded subdivision;

2. A parcel in an existing, duly recorded major or minor land partition;

3. An existing unit of land for which a survey has been duly filed which conformed to all applicable regulations at the time of filing; or

4. Any unit of land created prior to zoning and partitioning regulations by deed or metes and bounds description, and recorded with the County Clerk.

Lot, Through. A lot other than a corner lot with frontage on more than one street.

Lot width**.** The horizontal distance between side lot lines, measured at right angles to the lot depth~~the building line~~. Average lot width is measured at the midpoints of opposite lot lines.

Manufacture or repackaging of goods for on-site sale**.** Small scale manufacturing use, limited to 5,000 square feet of building area, and commonly associated with general retail services where products are sold on site.

Manufactured dwelling. As defined in ORS 446.003, a residential trailer, mobile home or manufactured home.

Manufactured home**.** As defined in ORS 446.003, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.~~A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.~~

Manufactured ~~home~~ dwelling park. As defined in ORS 446.003, any place where four or more manufactured dwellings or prefabricated structures, as defined in ORS 455.010, that are relocatable and more than eight and one-half feet wide, are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person.~~ or subdivision. Two or more manufactured home lots for rent or sale or a subdivision pursuant to ORS 92.830 to 92.845.~~

Manufacturing of finished products (heavy industrial)**.** Manufacturing, processing, or assembling of semi-finished or finished products from raw materials.

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

Marginal access street. A local street or Neighborhood Route parallel and adjacent to an arterial street providing access to abutting properties, but protected from through traffic.

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

Maximum disturbed area (MDA)**.** The MDA, as measured in square feet, is the maximum area within a WRA that can be disturbed in hardship cases under Chapter 32 CDC, Water Resource Area Protection.

Medical and dental services**.** Establishments primarily engaged in the provision of personal health services ranging from prevention, diagnosis and treatment (including outpatient surgery), or rehabilitation services provided by physicians, dentists, nurses, and other health personnel as well as the provision of medical testing and analysis

services, but excludes those classified as any civic use or group residential use types. Typical uses include: medical offices, eye care offices, dental offices and laboratories, or health maintenance organizations.

Minor modification**.** A change in the approved design that is equal to or less than a 10 percent increase in the length, width or height of the facility. A change of location by under 20 feet laterally for any part of the structure, ramp, dock, etc., also constitutes a minor modification.

Mitigation**.** Mitigation is creating, restoring or enhancing WRAs (including wetlands) to replace or compensate for the WRA lost. Creation entails constructing a WRA in an area that never supported WRAs historically. Restoration entails re-establishing WRA hydrology and vegetation to sites that have lost most of their function and value such as a site that was historically a WRA but dried out by draining or filling. Enhancement entails improving an existing but degraded WRA by correcting the conditions that cause it to be degraded. This might include providing more water to the site or the removal of invasive plant species and replacement with appropriate native plant material and trees.

Mixed use development**.** A combination of different types of uses that are complementary and integrated. This refers to allowing residential and businesses to be located in the same area (e.g., apartments over shops or other businesses or apartments adjacent to grocery stores or other commercial establishments).

Mobile home. As defined in ORS 446.003, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

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

Multiple family residential units**.** A structure containing five or more attached dwelling units in any vertical or horizontal arrangement and located on a single lot or parcel.

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

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

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

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

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

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

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

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

Nursery**.** The propagation of trees, shrubs, vines or flowering plants for transplanting, sale, or for grafting or budding; planting of seeds or cuttings; grafting and budding one variety on another; spraying and dusting of plants to control insects and diseases, and buying and selling the above plant stock at wholesale or retail. Seasonal labor

may be employed. The term "nursery" contemplates the sale of products of the nursery. The conduct of a nursery business presumes parking places for these functions. However, the use does not include the business of manufacturing and selling products composed of raw materials purchased off the premises. Plant-related products manufactured elsewhere may be resold on the premises.

Nursing home**.** A home, place or institution, or part thereof, in which convalescent and/or chronic care is rendered to two or more patients in exchange for compensation. Convalescent and/or chronic care includes, but is not limited to, the procedures commonly employed in nursing and caring for the sick; persons who are acutely ill or are surgical or maternity cases are excluded; qualified personnel and a consulting physician are available at all times; and isolation facilities are provided.

ODFW**.** Oregon Department of Fish and Wildlife.

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

Ordinary high water (OHW) mark (or "line")**.** The line on the bank or shore to which the water ordinarily rises in season. Also known as OHWM.

Ordinary low water (OLW) mark (or "line")**.** The line on the bank or shore to which the water ordinarily recedes in season. Also known as OLWM.

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

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

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

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

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

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

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

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

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

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

Partition land**.** To divide land to create not more than three parcels of land within a calendar year.

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

Passive-oriented parks**.** Passive-oriented parks are more natural sites that provide trail-related recreation opportunities and passive outdoor activities such as wildlife watching, nature interpretation and picnicking. Accessory uses can also be (but not limited to) provided in this type of park, such as picnic areas, nature play

features, trailheads, and environmental education facilities, provided they are accessory to the park's passive uses. Amenities should be limited to those appropriate for the numbers and types of visitors the area can accommodate, while retaining its resource value, natural character, and the intended level of solitude.

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

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

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

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

Personal service facilities**.** Establishments primarily engaged in the provision of informational, instructional, personal improvement, and similar services. It includes uses such as photography studios, barbershops, salons, and fitness studios.

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

Pilings**.** Plastic, wood, steel, or composite poles that are driven into, or otherwise attached to, the river bed to hold a dock in place or to support a pier.

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

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

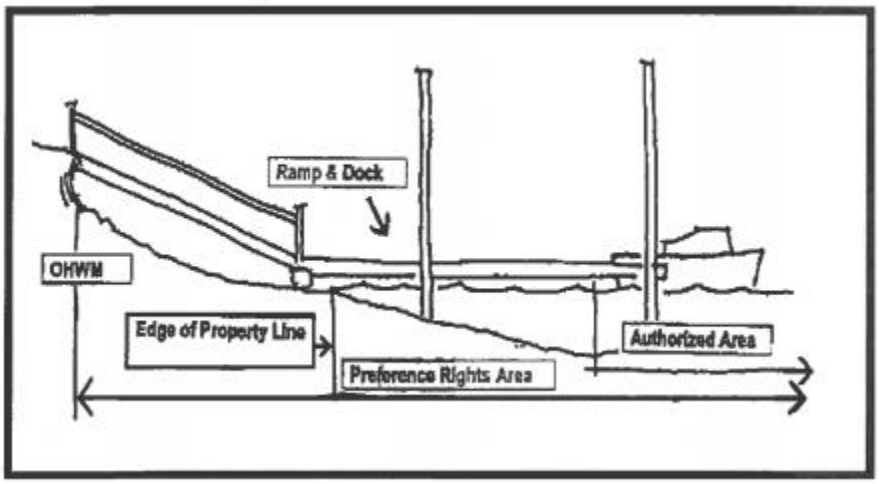
Potentially severe erosion hazard area**.** Surface areas where erosion can be easily caused by removal of vegetation cover, stripping topsoil or by placement of fill, whether by natural causes such as streams or surface runoff or by development activities. The placement of any new fill or severe cuts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

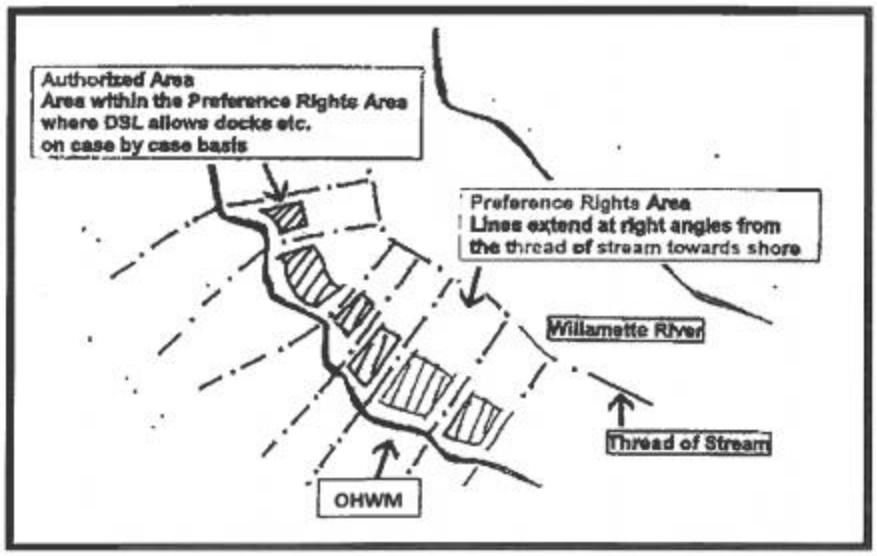
Potentially severe landslide hazard area**.** Areas where earth movement or failure, such as slumps, mud flows, debris slides, rock falls or soil falls, is likely to occur as a result of development activities. These activities include excavation which removes support of soils by changes in runoff, or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

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

Pre-application conference**.** A meeting between City staff and a prospective applicant, who is not necessarily the property owner but has the written permission of the property owner to schedule the conference, prior to the submittal of an application for a development permit.

Preference rights**.** The preference rights area represents the water surface that is allocated to each riverfront property owner by the Department of State Lands (DSL). Starting with the center thread of the river, DSL extends lines at right angles from that thread towards the OHW mark of the respective properties along the shoreline. (Because the thread of the river twists and turns, the line extending to shore can vary also in its angle.) The area within the preference rights area that the applicant may place their water-dependent structure (e.g., dock) is called the authorized area. (Also see "Authorized area" definition.)





Previously disturbed areas (PDA)**.** Areas, such as old driveways, trails, gardens, graded areas, old abandoned structural foundations, storm water outfalls and intakes, manholes, utilities, etc. that existed and were altered or modified before January 1, 2006, typically as a result of clearing, grubbing, grading, excavation or construction whereby the topography, ground cover and vegetation have been modified from their original or natural state and not re-established or returned to their natural state. The burden shall be on the applicant to date the PDA through photographs or other credible evidence. The PDA definition applies to Chapter 32 CDC and is distinct and separate from temporarily disturbed areas (TDAs) and maximum disturbed areas (MDAs).

Principal structure**.** The structure that represents the main use of the property; to which all other structures on the property serve an incidental or subordinate purpose.

Private railed launch facilities. These are rail lines that usually extend from an on-shore boat storage facility above OHW, across the beach and into the water below OLW for the purpose of launching a boat.

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

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

Property line**.** The division line between two units of land.

Property line adjustment**.** The relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel.

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

Protection area**.** Collective term to describe areas within the Willamette River Greenway boundary and/or Tualatin River Protection Area boundary.

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

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

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

Quadplex residential units**.** Four attached or detached dwelling units on a lot or parcel in any configuration.

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

Reasonable use**.** Uses, similar in size, intensity and type, to uses allowed on other properties in the City, that have the same zoning designation as the subject property.

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

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

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

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

Remodeling**.** The alteration of the physical condition of more than 50 percent of the floor area of an existing structure. Remodeling does not include normal maintenance or repair.

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

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

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

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

Review**.** A request that a final decision by the initial approval authority be considered by a higher authority as set forth in Chapter 99 CDC.

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

Riparian corridor**.** Any area within and adjacent to a WRA on the West Linn WRA Map for its vegetative, forested and habitat values.

Riparian vegetation**.** Plants native to the riparian areas.

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

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

1. Identify the public problem caused or exacerbated by the proposed development which the proposed exaction is designed to address.

2. Measure the impact of the proposed development upon the identified public problem.

3. Analyze how the proposed exaction solves or alleviates the identified public problem.

4. Analyze the proportionality of the proposed exaction to that part of the problem created or exacerbated by the proposed development.

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

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

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

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

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

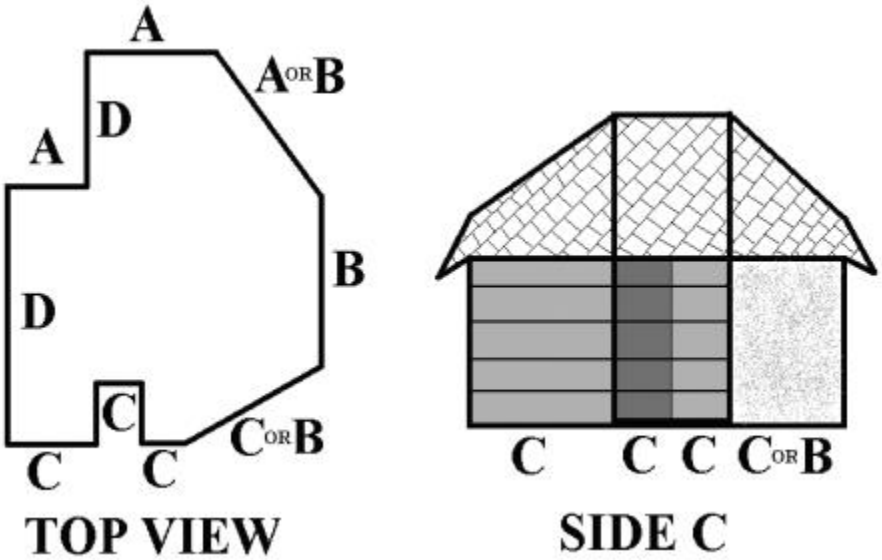
Senior citizen/handicapped housing facilities**.** Living facilities which provide living units, congregate dining, recreational facilities and other services and requiring 24-hour staffing assistance.

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

SIGN DEFINITIONS**.** The following terms and phrases shall have the meanings given to them below with regard to Chapter 52 CDC, Signs:

Billboard sign**.** A freestanding sign in excess of the maximum size allowed for freestanding signs.

Building face**.** The area of a single side of a structure used for computing allowable signage for that structure. More specifically, the building face is the height from grade to the roof eaves multiplied by the width of all walls facing the same direction on a single side of a structure. See illustration below.



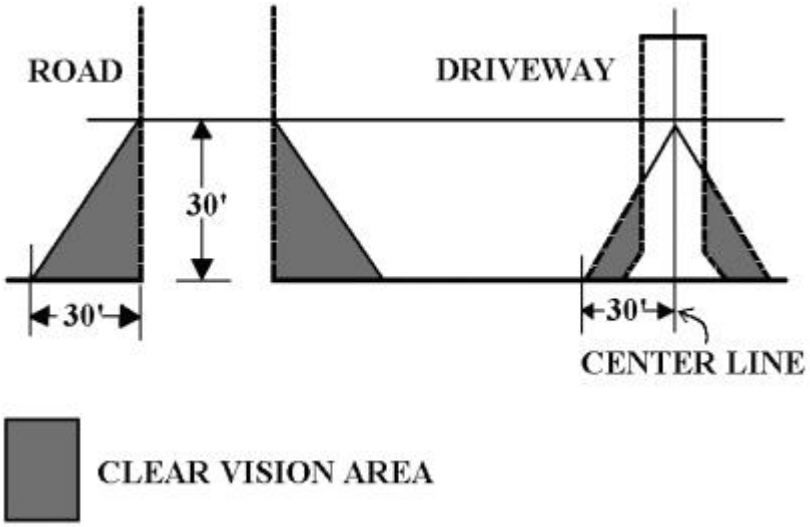
Note: For angled walls, walls cannot be double counted. In other words, to calculate the building face of side "C," you would add C+C+(C or B), while side "B" would then consist of B+(A or B) only.

Business**.** A commercial, office, or industrial development of one or more buildings on one or more tax lots in which there may be shared facilities such as parking, pedestrian mall, or common ownership of real property upon which the development is located.

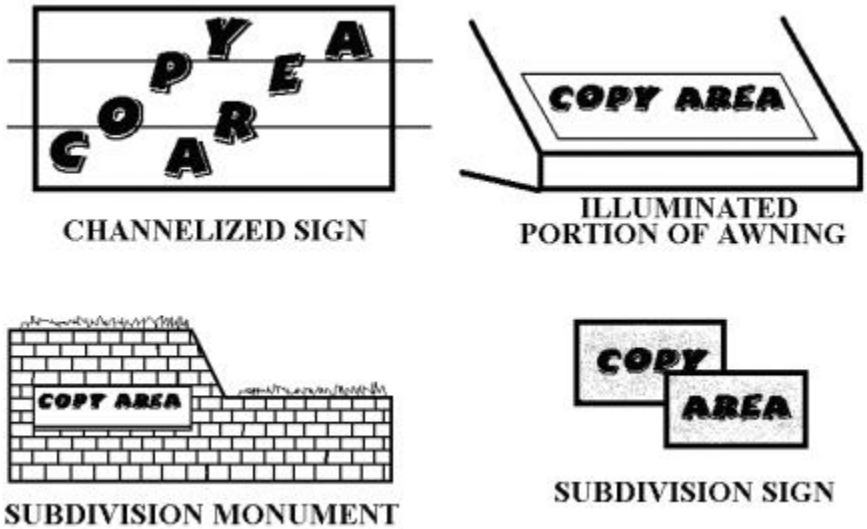
Business center**.** A commercial or industrial area planned and built as a unit containing two or more commercial or industrial establishments on a fully developed site of four acres or more in size, associated by common agreement or under common ownership, which comprise a single commercial or industrial unit with common parking, limited access, and a minimum frontage of 200 lineal feet. A large independent store or business on a fully developed site greater than 10 acres in size may also be considered as a shopping center for the purpose of outdoor advertising.

City sign**.** Signs which are erected and maintained by the City. This shall include temporary signs which are specifically approved by the City for placement in the public right-of-way in accordance with a resolution adopted pursuant to CDC 52.109(D).

Clear vision area**.** An area of unobstructed visibility which must be maintained for corner lots and driveways as specified in CDC 42.050. See illustration below.



Copy area**.** The smallest rectangular area which encompasses a business logogram or message. This is used to compute the sign area for, among others, channelized letter signs. The copy area for backlit awning signs shall consist of the area which is illuminated. Depending on the emphasis of the sign structure, the materials on which the sign is placed may be included in the copy area calculations. See illustration below.



Double-faced signs**.** Signs which have only two sign surfaces back to back. Allowable sign square footage applies to only one side of double-faced signs.

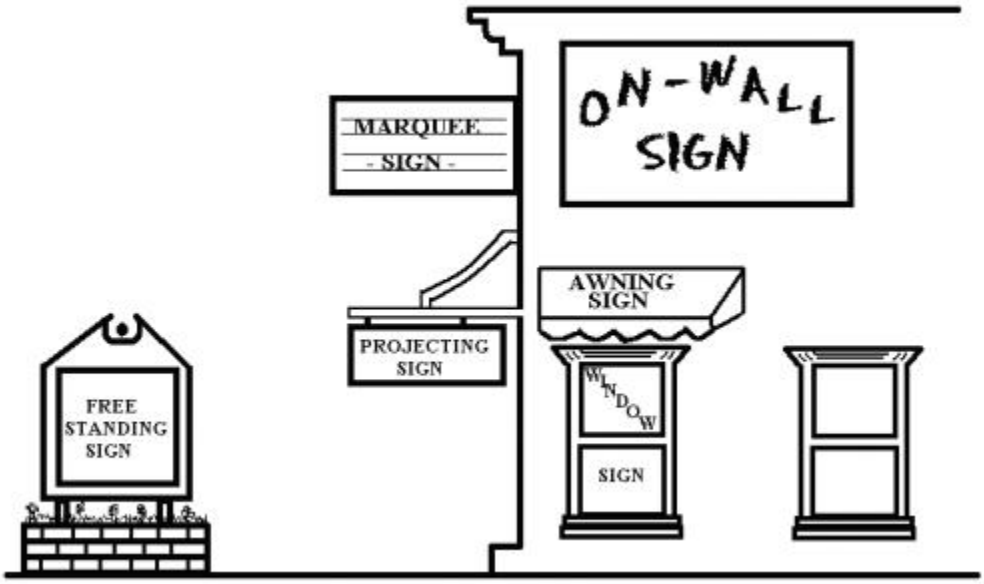
Grade**.** For the purpose of establishing the height of freestanding signs, the centerline of the nearest street shall be considered grade. The height of all signs mounted on a building shall be measured from the same point considered to be the grade of the building.

Incombustible material**.** Flame-resistant material as defined in the Uniform Building Code, Chapter 43, Fire-Resistive Standards.

Maintain**.** To permit a sign, sign structure, or part thereof to continue; or to repair or refurbish a sign, sign structure, or part thereof.

Projecting sign**.** A double-faced sign which projects more than 18 inches from the building wall to which it is attached.

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



Sign base**.** The structure beneath a freestanding sign which houses the upright supports for that sign.

Sign face or faceplate**.** The material on which a design, message, or logogram is printed or otherwise affixed. "Faceplate change" includes any change to an existing sign display.

Sign structure**.** The supports, braces, and framework of the sign.

Sign, A-frame**.** A temporary, freestanding, and portable form of advertising, also known as a sandwich board.

Sign, attached**.** A sign which is mounted to the walls of a building and may either be flat against or projecting from the wall.

Sign, awning**.** A sign painted, stamped, perforated, stitched, or otherwise applied on the valance of an awning.

Sign, changeable copy**.** A sign designed such that the copy can be readily altered as described below:

Changeable copy sign (automatic)**.** A sign on which the copy changes automatically on a lampbank or through mechanical means; e.g., electronic or electrical time and temperature units.

Changeable copy sign (manual)**.** A sign on which copy is changed manually in the field; e.g., readerboards with changeable letters.

Sign, electric**.** Any sign containing electrical wiring but does not include signs illuminated by an exterior floodlight source.

Sign, entryway**.** A freestanding sign placed at the entry to a commercial or industrial property that does not exceed 30 inches in height above grade and does not obstruct vision of motorists at driveway or street intersections.

Sign, freestanding**.** A sign which is ground-supported only and has no support other than one or more columns placed on a foundation designed to withstand the maximum movement developed by the sign in high wind without lateral bracing or support. Right-of-way setback distance to freestanding signs is measured to the closest part of the sign and/or support structures to the right-of-way.

Sign, freeway-oriented**.** A sign primarily designed to be read by a motorist traveling on a highway designated by the Oregon State Highway Department as a freeway or expressway; specifically, this shall be Interstate 205 and shall not include Highway 43.

Sign, illuminated**.** A sign which uses a light source to make recognizable its message or image in darkness. This definition shall include internally and externally lighted signs as well as reflectorized, glowing, or radiating signs.

Sign, marquee**.** Any sign affixed to or constructed in a permanent roofed structure projecting over a pedestrian or vehicular travel way from the side of a building.

Sign, non-conforming**.** Any sign lawfully installed prior to the effective date of this code, or any subsequent amendment thereto, which does not meet the current applicable standards for compliance.

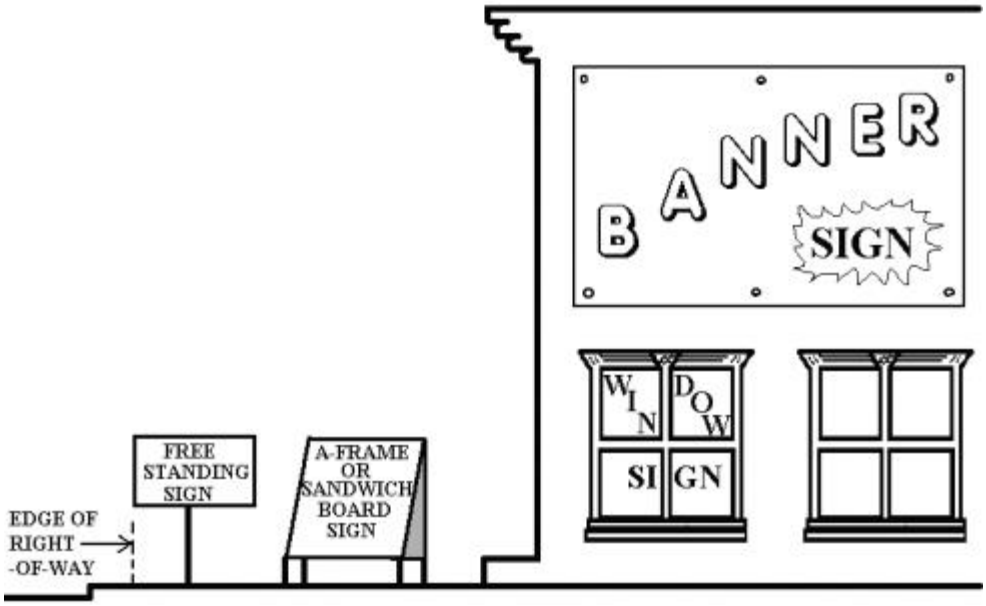
Sign, permanent**.** A sign constructed of durable materials such as wood, plastic, or metal which can withstand the deteriorating effects of weathering (e.g., tearing, cracking, peeling, warping) for a period of not less than six years. See illustration for "Sign."

Sign, roof**.** A sign erected upon or above a roof or parapet wall of a building and which is wholly or partially supported by said building.

Sign, subdivision monument**.** A sign at the entry to a subdivision on land owned by the homeowners association or the developer.

Sign, Sunday**.** A temporary A-frame sign allowed within City right-of-way on Sundays, subject to the requirements of CDC 52.109(E).

Sign, temporary**.** Any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light materials, with or without frames, intended to be displayed for a limited period of time. See illustration below.



Single-faced signs**.** Signs which have one advertising surface and only one side is visible to public right-of-way or private areas open to public vehicular travel, though not always placed flat against the surface of a wall.

Total sign area**.** The accumulated amount of signage from several locations. Total allowable sign area may normally be divided among two or more signs.

Wall sign (flat)**.** A sign which is painted or which is attached so its surface is parallel with the mounting wall and is readable from one side only.

Commentary:
The terms significant tree and significant tree cluster are used in the Design Review criteria in Chapter 55. Under the current definitions, it is up to the City Arborist to determine which trees and tree clusters are significant, but that is discretionary and not permitted under the clear and objective requirements. The proposed new definitions establish clear and measurable means of determining which trees and clusters are significant. The definitions are similar to those used in the West Linn Municipal Code to define which trees require tree removal permits to remove.

Significant tree**.** A tree with a minimum of 6 inch DBH for Oregon white oak, Pacific madrone, and Pacific dogwood, and 12 inch DBH for all other tree species. If the tree splits into multiple trunks above grade but below breast height, the diameter shall be determined by adding the total diameter of all trunks 2 inches or greater DBH.~~A tree is determined to be significant by the City Arborist based on its size, health, species, location, proximity to other significant trees, and other characteristics.~~

Significant Tree Cluster. Three or more significant trees with overlapping driplines.

Single-family attached residential units**.** Two or more dwelling units attached side by side with some structural parts in common at a common property line on separate lots or parcels. This may be further defined as a duplex, triplex, or quadplex.

Single-family detached residential units**.** One dwelling unit, freestanding and structurally separated from other dwelling units or buildings, located on a lot or parcel. This may be further defined as a duplex, triplex, or quadplex.

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

Slope determination (for WRAs)**.** Slope (e.g., rise over run) is the average slope in the first 50 feet as measured at right angle from the OHW mark~~, the edge of bankfull stage~~ or outer edge of wetland.

Soil infiltration**.** The process by which water on the surface enters the soil and replenishes below ground water tables.

Start of construction**.** The first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings, or any work beyond the stage of excavation. Permanent construction does not include land preparation such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a structure (other than manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure, or any part thereof, on its piling or foundation. For manufactured homes not within a manufactured home subdivision, "start of construction" means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home subdivisions, "start of construction" is the date on which the manufactured home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Stealth designs**.** The use of structures, etc., to accommodate and conceal a WCF, particularly as it may be seen from the adjoining right-of-way. An example would be the use of a cupola or clock tower to hide a WCF. Stealth designs can be either inside or outside a building.

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

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

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

Stream**.** A body of water with a current or flow confined within the OHW mark~~ or the edge of bankfull stage~~. (See also ephemeral stream or water resource.)

Stream centerline or thread**.** The starting point of measurement for ephemeral streams which often lack an identifiable ~~bankfull stage or~~ OHW mark.

Street. A public or private right-of-way ~~that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, and the placement of utilities and including the terms~~whose primary function is to carry vehicular traffic or provide vehicular access to abutting property, and that may allow access for pedestrians and bicycles. For purposes of this Code, facilities with other names meeting this definition (such as "road," "highway," "lane," "avenue," "alley," "place," "court," "way," "circle," or "drive~~,~~") are also considered streets.~~ or similar designations.~~

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

Structure**.** Anything built or constructed.

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

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

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

Substantial damage**.** Within the flood management area, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before damage occurred.

Substantial improvement**.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

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

Temporarily disturbed areas (TDA)**.** Area impacted by clearing, grubbing, grading, excavation, storage of building materials, building equipment, construction activity or other temporary activity whereby the area is modified from its original state but is subsequently fully restored in terms of soil character and grades and re-vegetated. TDAs will not have any new structures or other physical improvements built on them, but they may have buried utilities approved consistent with Chapter 32 CDC. The TDA definition is distinct and separate from disturbed areas, PDAs and MDAs. TDAs shall not include significant trees or wetlands that cannot be replicated in a timely way through restoration.

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

Through Street. A street that connects two or more streets.

Townhouse**.** A dwelling unit that is part of a row of two or more attached dwelling units, where each unit is located on an individual lot or parcel and shares at least one common wall with an adjacent dwelling unit.

Townhouse project**.** One or more townhouse structures constructed, or proposed to be constructed, together with the development site where the land has been divided, or is proposed to be divided, to reflect the townhouse property lines and any commonly owned property.

Tract**.** A lot or parcel, or more than one contiguous lot or parcel, in a single ownership.

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

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

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

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

2. Transportation facilities (Type II) are those which are not designated in the adopted TSP or part of an approved, active development order. Type II transportation facilities are allowed in all zoning districts subject to conditional use approval and the additional criteria of CDC 60.090.

Commentary:
The term "tree" is defined in order to distinguish trees from other woody plants, such as shrubs. The proposed definition is consistent with the definition used by the International Society of Arboriculture.

Tree. A woody perennial plant usually having one dominant trunk, the capacity to achieve a mature height greater than 16 feet, and primarily referred to as a tree in scientific literature.

Triplex residential units**.** Three attached or detached dwelling units on a lot or parcel in any configuration.

Types of land. Lands are categorized into one of four types (I, II, III or IV), depending on their features including slope, drainage and geology. In considering slope of the site, lands shall be classified into the steepest category for which they qualify.

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

1. Slope: Land that has slopes of 35 percent or more~~ over more than 50 percent of the site~~, as shown on the RLIS topography GIS layer.

2. Drainage: All lands within the designated floodway as shown on the appropriate FEMA flood panel.

3. Geological hazard: All landslide areas shown on the City's Natural Hazard Mitigation Plan ("NHMP") and identified as "landslide potential exists" on Map 16 of the NHMP, or areas outside Map 16, but within Map 17, Landslide Vulnerable Analysis Area.

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

1. Slope: Land that has slopes over 25 percent~~ on more than 50 percent of the site~~, as shown on the RLIS topography GIS layer.

2. Drainage: All drainage courses identified on the water resource area maps or areas identified as protected Goal 5 Wetlands, and areas outside the floodway, but within the floodway fringe, also known as the 100-year floodplain.

3. Geology: All known mineral and aggregate deposits identified on the Comprehensive Plan map as protected Goal 5 resources.

Type III lands**.** These lands are considered within the major portion of the City's developable lands. Standard development criteria can be applied through normal implementation measures. Type III lands have slopes over 10 percent~~ on more than 50 percent of the site~~, as shown on the RLIS topography GIS layer.

Type IV lands**.** These lands are considered to have few, if any, constraints to development and are within the major portion of the City's developable lands. Normal development standards will apply in these areas. Type IV lands have slopes 10 percent or under~~ on more than 50 percent of the site~~, as shown on the RLIS topography GIS layer.

Unhealthy or disturbed state**.** Defines an area of a WRA that is dominated by non-native vegetation and/or grading which is an appropriate candidate for restoration to its natural condition.

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

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

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

Utilities**.** All lines, facilities and services related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity, or similar service. There are two classes of utilities – major and minor:

Utility, major**.** A major utility facility or service includes, but is not limited to: a substation; pump station; water storage tank; sewerage treatment plant; water treatment plant; and transmission lines for water, drainage or sewerage collection systems, gas or electric, or other similar use.

Utility, minor**.** A minor utility facility or service includes, but is not limited to: overhead or underground electric, telephone or cable television poles and wires, and distribution lines for electric, gas, water, drainage or sewerage collection systems, or other similar use.

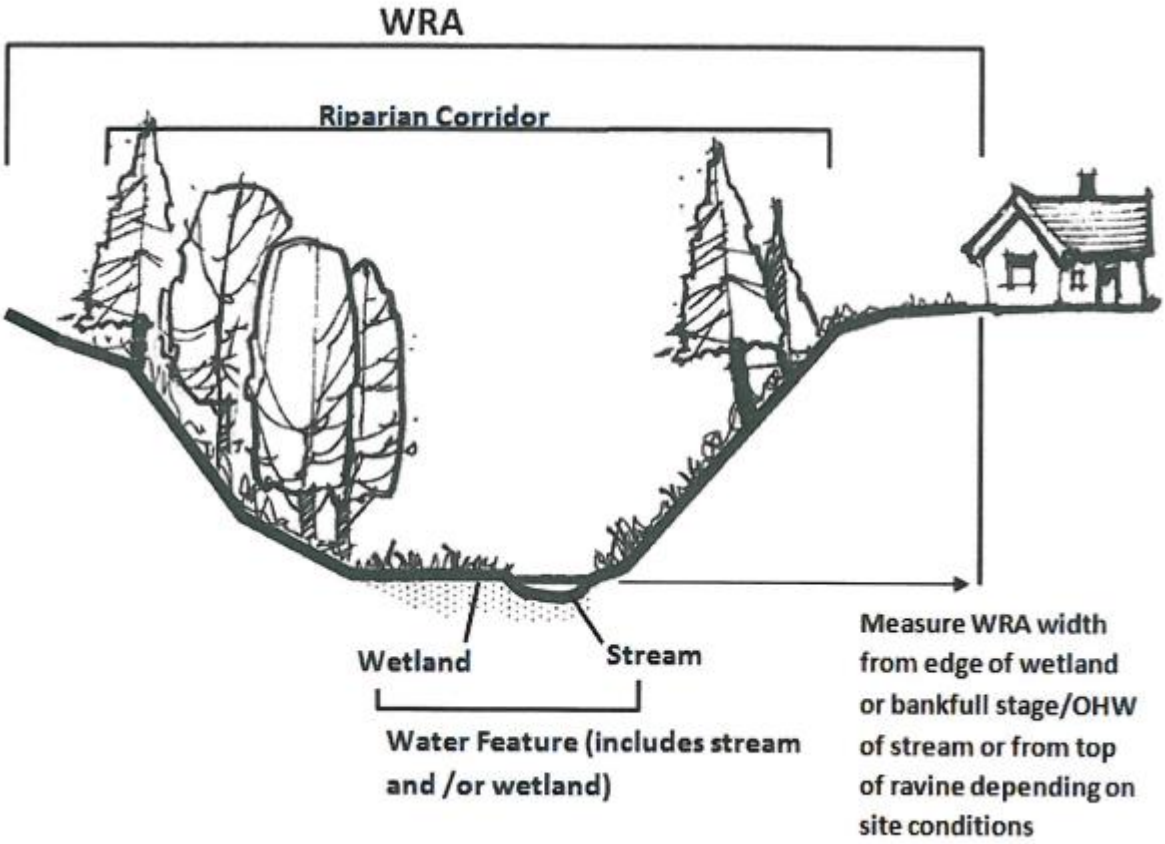
Variance**.** A discretionary decision to permit modification of the terms of an implementing ordinance based upon specific findings delineated in the Community Development Code.

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

Walkway/boardwalk**.** A floating or non-floating platform that either provides pedestrian access along a shoreline or within a riparian area; it may also act as a bridge between two bodies of land.

Water-dependent uses**.** Any use that requires access to, or use of, the rivers.

Water resource area (WRA)**.** Any water resource or riparian area identified in the West Linn WRA Map and the adjacent area of varying widths, established pursuant to Chapter 32 CDC, in which development activities are restricted in order to protect the functions and values of the associated water resource (see graphic below).



Water resource area transition and setback area**.** The land adjacent to the protected water feature that constitutes a buffer, or transition, to protect the resource from conflicting development and activities.

Water resource (or feature)**.** Any stream or wetland identified on the West Linn WRA map.

Wetlands**.** Those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands are also defined by the subcategories of "high quality wetlands" and "locally significant wetlands."

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

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

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

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

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

Willamette River Greenway Area**.** The area designated by the City of West Linn Comprehensive Plan as within the Willamette River Greenway and thus subject to the provisions of Goal 15 (Willamette Greenway) of the Oregon Statewide Planning Program.

Wireless communication facility (WCF)**.** An unstaffed facility for the transmission or reception of radio frequency (RF) signals, usually consisting of an equipment shelter, cabinet, or other enclosed structure containing electronic equipment, a support structure, antennas, or other transmission and reception devices. It may also include stealth designs.

Wireless communication facility (WCF), attached**.** A wireless communication facility that is affixed to an existing structure; e.g., an existing building wall or roof, mechanical equipment, tower or pole, water tank, utility pole, or light pole. It cannot include an additional new wireless communication support structure.

Wireless communication support structure**.** A new structure, tower, pole, or mast erected to support wireless communication antennas and connecting appurtenances. Support structure types include, but are not limited to, monopoles, lattice towers, wood poles, and guyed towers.

Yard**.** A required area of land unoccupied and unobstructed by any structure that is 30 inches or more above the general ground level, with the exception of fences, walkways/staircases, retaining walls, poles, posts, customary yard accessories, appurtenances, ornaments, furniture and accessory structures or uses permitted subject to the provisions of this code. (See Figure A below.)

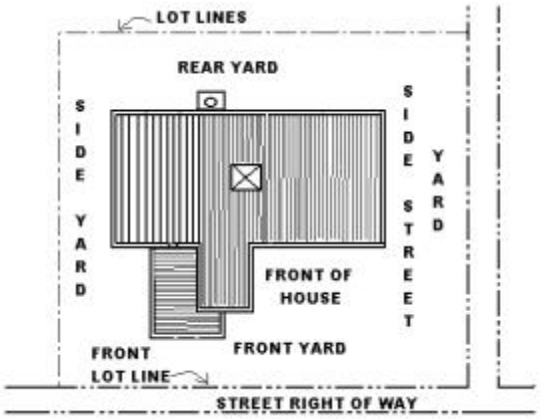


Figure A

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

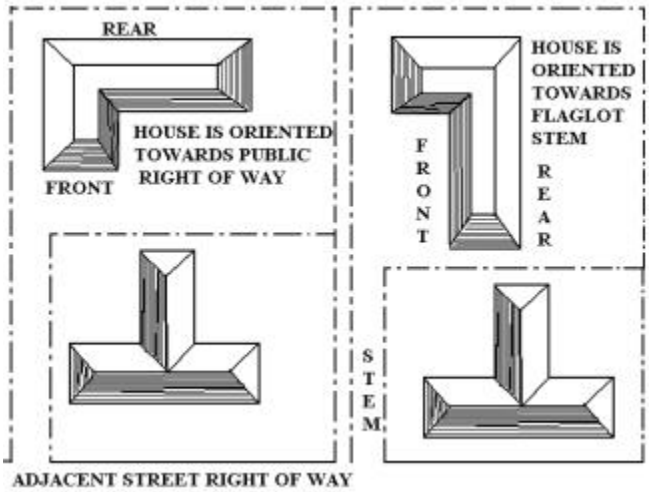


Figure B

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

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

Yard, side street**.** For dwellings or homes on corner lots, this is the yard on the side of the house that faces a street right-of-way and does not include the front of the house or front yard. (See Figure A). (Ord. 1604 § 2, 2011; Ord. 1613 § 1, 2013; Ord. 1614 § 1, 2013; Ord. 1622 §§ 22, 29, 2014; Ord. 1623 § 2, 2014; Ord. 1635 § 3, 2014; Ord. 1636 § 3, 2014; Ord. 1647 § 1, 2016; Ord. 1655 § 1, 2016; Ord. 1662 § 1, 2017; Ord. 1675 § 1, 2018; Ord. 1686 § 1, 2018; Ord. 1694 § 1, 2019; Ord. 1732 § 2 (Exh. A), 2022; Ord. 1735 § 2 (Exh. A), 2022; Ord. 1736 § 1 (Exh. A), 2022)

Commentary:

The following amendments apply in multiple base zone chapters.

- The *PROCEDURES AND APPROVAL PROCESS* sections in each zone (section XX.020) state that a permitted use is "a use which requires no approval under the provisions of this code." However, many uses are subject to Design Review, which is a type of land use review, per the OTHER APPLICABLE DEVELOPMENT STANDARDS sections in each chapter. To make this clearer, the proposed approach is to simply note that some uses require design review.
- The *OTHER APPLICABLE DEVELOPMENT STANDARDS* sections (section XX.090) list single-family detached and attached dwellings as exempt from Chapter 55 Design Review. Under House Bill 2001, the City cannot apply a review process to middle housing that does not apply to single-family detached dwellings. Therefore, all middle housing types (including cottage clusters and townhouses) must be exempt where single-family detached dwellings are exempt. This has been updated to clarify the provisions in each chapter.
- Under House Bill 4064 (2022), the City cannot apply standards to manufactured homes that do not apply to site-built single-family homes in the same zone. Also, the City's current practice is not to require Design Review for accessory dwelling units. Therefore, both manufactured homes and ADUs are listed as exempt from Design Review in all sections XX.090.

Additional commentary can be found in Sections 09.010, 14.050, and 16.050.

Chapter 08

RESIDENTIAL, R-40

Sections:

08.010 PURPOSE
08.020 PROCEDURES AND APPROVAL PROCESS
08.030 PERMITTED USES
08.040 ACCESSORY USES
08.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
08.060 CONDITIONAL USES
08.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
08.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES
08.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

08.010 PURPOSE

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

08.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 08.030, is a use which requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 08.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions, CDC 08.050, is a use for which approval will be granted provided all the conditions are satisfied, and:

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required;

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. The approval of a conditional use (CDC 08.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance.

08.030 PERMITTED USES

The following uses are permitted outright in this zone:

1. Community recreation.
2. Cottage cluster.
3. Family day care.
4. Public support facilities.
5. Residential home.
6. Single-family attached or detached residential unit.
   a. Duplex residential units.
   b. Triplex residential units.
   c. Quadplex residential units.
7. Townhouse.
8. Utilities, minor.
9. Manufactured ~~housing~~home.
10. Transportation facilities (Type I). (Ord. 1354, 1994; Ord. 1500, 2003; Ord. 1584, 2008; Ord. 1736 § 1 (Exh. A), 2022)

08.040 ACCESSORY USES

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

08.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Home occupations, subject to the provisions of Chapter 37 CDC.

2. Sign, subject to the provisions of Chapter 52 CDC.

3. Temporary use subject to the provisions of Chapter 35 CDC.

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 shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot less than one acre or which has less than 20,000 feet per head of livestock. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code. (Ord. 1565, 2008; Ord. 1624 § 2, 2014)

08.060 CONDITIONAL USES

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

1. Cultural exhibits and library services.

2. Lodge, social, community center and civic assembly.

3. Public safety facilities.

4. Recycle collection center.

5. Religious institution.

6. Schools.

7. Utilities, major.

8. Aggregate extraction except aggregate extraction on submersible land subject to valid permits from the U.S. Army Corps of Engineers and the Oregon State Land Board.

9. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria. (Ord. 1538, 2006; Ord. 1565, 2008; Ord. 1584, 2008; Ord. 1604 § 4, 2011)

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:

STANDARD		REQUIREMENT	ADDITIONAL NOTES
Minimum lot size Average minimum lot or parcel size for a townhouse project		40,000 sf 1,500 sf	For a single-family attached or detached unit
Minimum lot width at front lot line		150 ft	Does not apply to townhouses or cottage clusters
Average minimum lot width		150 ft	Does not apply to townhouses or cottage clusters
Minimum yard dimensions or minimum building setbacks			Front, rear, and side yard setbacks for a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.
	Front yard	30 ft	Except for steeply sloped lots where the provisions of CDC 41.010 shall apply
	Interior side yard	10 ft	Townhouse common walls that are attached may have a 0 ft side setback.
	Street side yard Townhouse street side yard	30 ft 15 ft	
	Rear yard	30 ft	
Maximum building height		40 ft	Except for steeply sloped lots, in which case the provisions of Chapter 41 CDC shall apply
Maximum lot coverage		25%	Maximum lot coverage does not apply to cottage clusters. However, the maximum building footprint for a cottage cluster is less than 900 sf per dwelling unit. • This does not include detached garages, carports, or accessory structures. • A developer may deduct up to 200 sf for an attached garage or carport.
Minimum accessway width to a lot which does not abut a street or a flag lot		20 ft	
Maximum floor area ratio		0.45	Maximum FAR does not apply to cottage clusters. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.

1. The sidewall provisions of Chapter 43 CDC shall apply. (Ord. 1377, 1995; Ord. 1622 § 24, 2014; Ord. 1675 § 2, 2018; Ord. 1736 § 1 (Exh. A), 2022)

08.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 5, 2014)

08.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

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

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Areas.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except attached and/or detached single-family dwellings, cottage clusters, townhouses, manufactured homes, accessory dwelling units, residential homes and residential facilities. (Ord. 1590 § 1, 2009; Ord. 1675 § 3, 2018; Ord. 1736 § 1 (Exh. A), 2022)

Chapter 09

RESIDENTIAL, R-20

Sections:

09.010 PURPOSE
09.020 PROCEDURES AND APPROVAL PROCESS
09.030 PERMITTED USES
09.040 ACCESSORY USES
09.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
09.060 CONDITIONAL USES
09.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
09.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES
09.090 OTHER APPLICABLE DEVELOPMENT STANDARDS
09.100 REDIVISION PLAN REQUIRED

09.010 PURPOSE

The purpose of this district is to provide for development flexibility at a range of densities where urban services are available. The intent of the zone is to allow development at a level which recognizes and preserves natural features of the area. This zone may also be applied to areas where public harm to wildlife habitats may result if developed at a higher density. (Ord. 1308, 1991)

09.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 09.030, is a use which requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 09.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions, CDC 09.050, is a use for which approval will be granted provided all conditions are satisfied, and:

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. The approval of a conditional use (CDC 09.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance.

09.030 PERMITTED USES

The following are uses permitted outright in this zoning district:

1. Community recreation.

2. Cottage cluster.

3. Family day care.

4. Residential home.

5. Single-family attached or detached residential unit.

   a. Duplex residential units.

   b. Triplex residential units.

   c. Quadplex residential units.

6. Townhouse.

7. Utilities, minor.

8. Transportation facilities (Type I).

9. Manufactured home. (Ord. 1226, 1988; Ord. 1500, 2003; Ord. 1584, 2008; Ord. 1635 § 4, 2014; Ord. 1736 § 1 (Exh. A), 2022)

09.040 ACCESSORY USES

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

09.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Home occupations, subject to the provisions of Chapter 37 CDC.

2. Sign, subject to the provisions of Chapter 52 CDC.

3. Temporary use, subject to the provisions of Chapter 35 CDC.

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 shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot less than one acre, or which has less than 20,000 feet per head of livestock. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.

5. Wireless communication facilities, subject to the provisions of Chapter 57 CDC. (Ord. 1298, 1991; Ord. 1308, 1991; Ord. 1408, 1998; Ord. 1565, 2008; Ord. 1624 § 3, 2014; Ord. 1635 § 5, 2014)

09.060 CONDITIONAL USES

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

1. Cultural exhibits and library services.

2. Lodge, social, community center and civic assembly.

3. Public safety facilities.

4. Public support facilities.

5. Recycle collection center.

6. Religious institution.

7. Schools.

8. Senior center.

9. Utilities, major.

10. Aggregate extraction except aggregate extraction on submersible land, subject to valid permits from the U.S. Army Corps of Engineers and the Oregon State Land Board.

11. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria. (Ord. 1172, 1985; Ord. 1378, 1995; Ord. 1411, 1998; Ord. 1565, 2008; Ord. 1584, 2008; Ord. 1604 § 5, 2011)

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:

STANDARD		REQUIREMENT	ADDITIONAL NOTES
Minimum lot size Average minimum lot or parcel size for a townhouse project		20,000 sf 1,500 sf	For a single-family attached or detached unit
Minimum lot width at front lot line		100 ft	Does not apply to townhouses or cottage clusters
Average minimum lot width		100 ft	Does not apply to townhouses or cottage clusters
Minimum yard dimensions or minimum building setbacks			Front, rear, and side yard setbacks in a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.
	Front yard	20 ft	Except for steeply sloped lots where the provisions of CDC 41.010 shall apply
	Interior side yard	7.5 ft	Townhouse common walls that are attached may have a 0-ft side setback.
	Street side yard	15 ft	
	Rear yard	20 ft	
Maximum building height		40 ft	Except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply.
Maximum lot coverage		25%	Maximum lot coverage does not apply to cottage clusters. However, the maximum building footprint for a cottage cluster is less than 900 sf per dwelling units. • This does not include detached garages, carports, or accessory structures. • A developer may deduct up to 200 sf for an attached garage or carport.
Minimum accessway width to a lot which does not abut a street or a flag lot		15 ft	
Maximum floor area ratio		0.45	Maximum FAR does not apply to cottage clusters. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.

1. The sidewall provisions of Chapter 43 CDC shall apply. (Ord. 1298, 1991; Ord. 1377, 1995; Ord. 1538, 2006; Ord. 1622 § 24, 2014; Ord. 1675 § 4, 2018; Ord. 1736 § 1 (Exh. A), 2022)

09.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 6, 2014)

09.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

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

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Areas.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except attached and/or detached single-family dwellings, cottage clusters, townhouses, manufactured homes, accessory dwelling units, residential homes and residential facilities. (Ord. 1308, 1991; Ord. 1590 § 1, 2009; Ord. 1675 § 5, 2018; Ord. 1736 § 1 (Exh. A), 2022)

Commentary:

Section 09.100 requires a redivision plan in the R-20 zone for large properties that are big enough to be further divided into two or more lots (i.e., where the property could be developer at a higher density). Some of the language in the criteria below are discretionary. Also, since this is required even for a single-family dwelling building permit, the requirements appear to conflict with single-family detached dwellings being permitted outright. The proposed approach is to delete this section, and let Section 85.180 control. That section, which is triggered by a partition or subdivision, requires a Redivision Plan under similar circumstances (where the property could be developed at a higher density), and includes the same requirements and criteria as below.

~~09.100 REDIVISION PLAN REQUIRED~~

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

~~B. The redevelopment plan is a sketch plan, and a land survey and engineering drawing is not required except where there are unique soil, topographic or geologic conditions. Under the provisions of CDC 99.035, Administrative Procedures, the Planning Director may require additional information.~~

~~C. The applicant shall submit a topographic map based on available information, and a subdivision layout in accordance with standards set forth in Chapter 85 CDC, Land Division, and the Low Density Residential, R-20 zone.~~

~~D. A building permit issued shall be for a specified future lot or parcel and the building shall meet the setback provisions of the Low Density Residential, R-20 zone.~~

~~E. The redivision plan is considered a guide. Its purpose is to assure the efficient use of land and orderly growth. At such time as the property owner applies to redivide the land, a different proposal may be submitted for approval provided it meets all of the requirements. The redivision plan is not binding on the applicant or the City at the time a formal application is submitted under the land division chapter.~~

~~F. The Planning Director shall approve the redivision plan in the manner set forth in CDC 99.060(A)(2), except that no notice shall be given. The applicant may appeal the Planning Director's decision as provided by CDC 99.240(A).~~

~~G. The Planning Director's decision shall be based on the following findings:~~

~~1. The redivision plan complies with the applicable requirements of the land division chapters and Low Density Residential, R-20 zone.~~

~~2. The sub-surface sewage system has been approved.~~

~~3. There is adequate water for the proposed use. (Ord. 1308, 1991; Ord. 1636 § 7, 2014)~~

Chapter 10

RESIDENTIAL, R-15

Sections:

10.010 PURPOSE
10.020 PROCEDURES AND APPROVAL PROCESS
10.030 PERMITTED USES
10.040 ACCESSORY USES
10.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
10.060 CONDITIONAL USES
10.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
10.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES
10.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

10.010 PURPOSE

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

10.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 10.030, is a use which requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 10.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions, CDC 10.050, is a use for which approval will be granted provided all conditions are satisfied, and:

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. The approval of a conditional use (CDC 10.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance.

10.030 PERMITTED USES

The following uses are permitted outright in this zoning district:

1. Community recreation.

2. Cottage cluster.

3. Family day care.

4. Residential home.

5. Single-family attached or detached residential unit.

   a. Duplex residential units.

   b. Triplex residential units.

   c. Quadplex residential units.

6. Townhouse.

7. Utilities, minor.

8. Transportation facilities (Type I).

9. Manufactured home. (Ord. 1226, 1988; Ord. 1500, 2003; Ord. 1584, 2008; Ord. 1590 § 1, 2009; Ord. 1635 § 6, 2014; Ord. 1736 § 1 (Exh. A), 2022)

10.040 ACCESSORY USES

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

10.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Home occupations, subject to the provisions of Chapter 37 CDC.

2. Sign, subject to the provisions of Chapter 52 CDC.

3. Temporary use, subject to the provisions of Chapter 35 CDC.

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 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. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.

5. Wireless communication facilities, subject to the provisions of Chapter 57 CDC. (Ord. 1298, 1991; Ord. 1308, 1991; Ord. 1408, 1998; Ord. 1565, 2008; Ord. 1624 § 4, 2014; Ord. 1635 § 7, 2014)

10.060 CONDITIONAL USES

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

1. Cultural exhibits and library services.

2. Lodge, social, community center and civic assembly.

3. Public safety facilities.

4. Public support facilities.

5. Recycle collection center.

6. Religious institution.

7. Schools.

8. Senior center.

9. Utilities, major.

10. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria. (Ord. 1377, 1995; Ord. 1378, 1995; Ord. 1411, 1998; Ord. 1565, 2008; Ord. 1584, 2008; Ord. 1604 § 6, 2011)

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:

STANDARD		REQUIREMENT	ADDITIONAL NOTES
Minimum lot size Average minimum lot or parcel size for a townhouse project		15,000 sf 1,500 sf	For a single-family attached or detached unit.
Minimum lot width at front lot line		45 ft	Does not apply to townhouses or cottage clusters
Average minimum lot width		80 ft	Does not apply to townhouses or cottage clusters
Minimum yard dimensions or minimum building setbacks			Front, rear, and side yard setbacks in a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.
	Front yard	20 ft	Except for steeply sloped lots where the provisions of CDC 41.010 shall apply
	Interior side yard	7.5 ft	Townhouse common walls that are attached may have a 0-ft side setback.
	Street side yard	15 ft	
	Rear yard	20 ft	
Maximum building height		40 ft	Except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply.
Maximum lot coverage		30%	Maximum lot coverage does not apply to cottage clusters. However, the maximum building footprint for a cottage cluster is less than 900 sf per dwelling unit. • This does not include detached garages, carports, or accessory structures. • A developer may deduct up to 200 sf for an attached garage or carport.
Minimum accessway width to a lot which does not abut a street or a flag lot		15 ft	
Maximum Floor Area Ratio		0.45	Maximum FAR does not apply to cottage clusters. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.

1. The sidewall provisions of Chapter 43 CDC shall apply. (Ord. 1377, 1995; Ord. 1538, 2006; Ord. 1622 § 24, 2014; Ord. 1675 § 6, 2018; Ord. 1736 § 1 (Exh. A), 2022)

10.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 8, 2014)

10.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

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

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Areas.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except attached and/or detached single-family dwellings, cottage clusters, townhouses, manufactured homes, accessory dwelling units, residential homes and residential facilities. (Ord. 1590 § 1, 2009; Ord. 1675 § 7, 2018; Ord. 1736 § 1 (Exh. A), 2022)

Chapter 11

RESIDENTIAL, R-10

Sections:

11.010 PURPOSE
11.020 PROCEDURES AND APPROVAL PROCESS
11.030 PERMITTED USES
11.040 ACCESSORY USES
11.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
11.060 CONDITIONAL USES
11.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
11.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES
11.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

11.010 PURPOSE

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

11.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 11.030, is a use which requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 11.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions (CDC 11.050) is a use for which approval will be granted provided all conditions are satisfied, and:

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. A conditional use (CDC 11.060) is a use the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance.

11.030 PERMITTED USES

The following are uses permitted outright in this zoning district:

1. Single-family attached or detached residential unit.
    a. Duplex residential units.
    b. Triplex residential units.
    c. Quadplex residential units.
2. Cottage clusters.
3. Townhouse.
4. Community recreation.
5. Family day care.
6. Residential home.
7. Utilities, minor.
8. Transportation facilities (Type I).
9. Manufactured home.
10. Community building on City-owned property at 3706 Cedaroak Drive and indicated on the map below.

(Ord. 1226, 1988; Ord. 1500, 2003; Ord. 1584, 2008; Ord. 1635 § 8, 2014; Ord. 1661 § 1, 2017; Ord. 1736 § 1 (Exh. A), 2022)

11.040 ACCESSORY USES

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

11.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Home occupations, subject to the provisions of Chapter 37 CDC.

2. Sign, subject to the provisions of Chapter 52 CDC.

3. Temporary uses, subject to the provisions of Chapter 35 CDC.

4. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.

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 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. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.

6. Wireless communication facilities, subject to the provisions of Chapter 57 CDC. (Ord. 1298, 1991; Ord. 1308, 1991; Ord. 1408, 1998; Ord. 1565, 2008; Ord. 1624 § 5, 2014; Ord. 1635 § 9, 2014)

11.060 CONDITIONAL USES

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

1. Cultural exhibits and library services.

2. Lodge, social, community center and civic assembly.

3. Public safety facilities.

4. Public support facilities.

5. Recycle collection center.

6. Religious institution.

7. Schools.

8. Senior center.

9. Utilities, major.

10. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria. (Ord. 1172, 1985; Ord. 1377, 1995; Ord. 1378, 1995; Ord. 1411, 1998; Ord. 1565, 2008; Ord. 1584, 2008; Ord. 1604 § 7, 2011)

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:

STANDARD		REQUIREMENT	ADDITIONAL NOTES
Minimum lot size Average minimum lot or parcel size for a townhouse project		10,000 sf 1,500 sf	For a single-family attached or detached unit
Minimum lot width at front lot line		35 ft	Does not apply to townhouses or cottage clusters
Average minimum lot width		50 ft	Does not apply to townhouses or cottage clusters
Minimum yard dimensions or minimum building setbacks			Except as specified in CDC 25.070(C)(1) through (4) for the Willamette Historic District. Front, rear, and side yard setbacks in a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.
	Front yard	20 ft	Except for steeply sloped lots where the provisions of CDC 41.010 shall apply
	Interior side yard	7.5 ft	Townhouse common walls that are attached may have a 0-ft side setback.
	Street side yard	15 ft	
	Rear yard	20 ft	
Maximum building height		35 ft	Except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply.
Maximum lot coverage		35%	Maximum lot coverage does not apply to cottage clusters. However, the maximum building footprint for a cottage cluster is less than 900 sf per dwelling unit. • This does not include detached garages, carports, or accessory structures. • A developer may deduct up to 200 sf for an attached garage or carport.
Minimum accessway width to a lot which does not abut a street or a flag lot		15 ft	
Maximum floor area ratio		0.45	Maximum FAR does not apply to cottage clusters.
Duplex, triplex, and quadplex		0.60	Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property, including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-

STANDARD	REQUIREMENT	ADDITIONAL NOTES
		conforming structures permit under Chapter 66 CDC.

1. The sidewall provisions of Chapter 43 CDC shall apply. (Ord. 1175, 1986; Ord. 1298, 1991; Ord. 1377, 1995; Ord. 1538, 2006; Ord. 1614 § 2, 2013; Ord. 1622 § 24, 2014; Ord. 1675 § 8, 2018; Ord. 1736 § 1 (Exh. A), 2022)

11.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 9, 2014)

11.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

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

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Areas.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except attached and/or detached single-family dwellings, cottage clusters, townhouses, manufactured homes, accessory dwelling units, residential homes and residential facilities. (Ord. 1590 § 1, 2009; Ord. 1675 § 9, 2018; Ord. 1736 § 1 (Exh. A), 2022)

Chapter 12

RESIDENTIAL, R-7

Sections:

12.010 PURPOSE
12.020 PROCEDURES AND APPROVAL PROCESS
12.030 PERMITTED USES
12.040 ACCESSORY USES
12.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
12.060 CONDITIONAL USES
12.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
12.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USE
12.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

12.010 PURPOSE

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

12.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 12.030, is a use which requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 12.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions (CDC 12.050) is a use for which approval will be granted provided all conditions are satisfied, and:

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. The approval of a conditional use (CDC 12.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance.

12.030 PERMITTED USES

The following uses are permitted outright in this zone:

1. Single-family attached and detached residential unit.

    a. Duplex residential units.

    b. Triplex residential units.

    c. Quadplex residential units.

2. Cottage cluster.

3. Townhouse.

4. Community recreation.

5. Family day care.

6. Residential home.

7. Utilities, minor.

8. Transportation facilities (Type I).

9. Manufactured home. (Ord. 1226, 1988; Ord. 1500, 2003; Ord. 1584, 2008; Ord. 1635 § 10, 2014; Ord. 1736 § 1 (Exh. A), 2022)

12.040 ACCESSORY USES

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

12.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Home occupations, subject to the provisions of Chapter 37 CDC.

2. Signs, subject to the provisions of Chapter 52 CDC.

3. Temporary uses, subject to the provisions of Chapter 35 CDC.

4. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.

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 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. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.

6. Wireless communication facilities, subject to the provisions of Chapter 57 CDC. (Ord. 1255, 1989; Ord. 1298, 1991; Ord. 1408, 1998; Ord. 1565, 2008; Ord. 1624 § 6, 2014; Ord. 1635 § 11, 2014)

12.060 CONDITIONAL USES

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

1. Certified child care center.

2. Cultural exhibits and library services.

3. Lodge, social, community center and civic assembly.

4. Public safety facilities.

5. Public support facilities.

6. Recycle collection center.

7. Religious institution.

8. Schools.

9. Senior center.

10. Utilities, major.

11. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria. (Ord. 1377, 1995; Ord. 1378, 1995; Ord. 1411, 1998; Ord. 1565, 2008; Ord. 1584, 2008; Ord. 1604 § 8, 2011; Ord. 1675 § 10, 2018)

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:

STANDARD		REQUIREMENT	ADDITIONAL NOTES
Minimum lot size			
	For single-family detached units	7,000 sf	No yard shall be required between units
	For single-family attached units	5,500 sf	
	Average minimum lot or parcel size for a townhouse project	1,500 sf	
Minimum lot width at front lot line		35 ft	Does not apply to townhouses or cottage clusters
Average minimum lot width		35 ft	Does not apply to townhouses or cottage clusters
Minimum yard dimensions or minimum building setbacks			Front, rear, and side yard setbacks in a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.
	Front yard	20 ft	Except for steeply sloped lots where the provisions of CDC 41.010 shall apply
	Interior side yard	7.5 ft	Townhouse common walls that are attached may have a 0-ft side setback.
	Street side yard	15 ft	
	Rear yard	20 ft	
Maximum building height		35 ft	Except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply.
Maximum lot coverage		35%	Maximum lot cover does not apply to cottage clusters. However, the maximum building footprint for a cottage cluster is less than 900 sf per dwelling unit. • This does not include detached garages, carports, or accessory structures. • A developer may deduct up to 200 sf for an attached garage or carport.
Minimum accessway width to a lot which does not abut a street or a flag lot		15 ft	
Maximum floor area ratio		0.45	Maximum FAR does not apply to cottage clusters.
Duplex, triplex, and quadplex		0.60	Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.

1. The sidewall provisions of Chapter 43 CDC shall apply. (Ord. 1226, 1988; Ord. 1308, 1991; Ord. 1377, 1995; Ord. 1538, 2006; Ord. 1622 § 24, 2014; Ord. 1675 § 11, 2018; Ord. 1736 § 1 (Exh. A), 2022)

12.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USE

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 10, 2014)

12.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

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

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Area.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except attached and/or detached single-family dwellings, cottage clusters, townhouses, manufactured homes, accessory dwelling units, residential homes and residential facilities. (Ord. 1308, 1991; Ord. 1590 § 1, 2009; Ord. 1675 § 12, 2018; Ord. 1736 § 1 (Exh. A), 2022)

Chapter 13

RESIDENTIAL, R-5

Sections:

13.010 PURPOSE
13.020 PROCEDURES AND APPROVAL PROCESS
13.030 PERMITTED USES
13.040 ACCESSORY USES
13.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
13.060 CONDITIONAL USES
13.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
13.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USE
13.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

13.010 PURPOSE

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

13.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 13.030, is a use which requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 13.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions, CDC 13.050, is a use for which approval will be granted provided all conditions are satisfied, and:

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. The approval of a conditional use (CDC 13.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance.

13.030 PERMITTED USES

The following uses are permitted outright in this zoning district:

1. Single-family attached or detached residential unit.

    a. Duplex residential units.

    b. Triplex residential units.

    c. Quadplex residential units.

2. Cottage cluster.

3. Townhouse.

4. Community recreation.

5. Family day care.

6. Residential home.

7. Utilities, minor.

8. Transportation facilities (Type I).

9. Manufactured home. (Ord. 1308, 1991; Ord. 1500, 2003; Ord. 1584, 2008; Ord. 1614 § 3, 2013; Ord. 1635 § 12, 2014; Ord. 1736 § 1 (Exh. A), 2022)

13.040 ACCESSORY USES

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

13.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Manufactured ~~home~~ dwelling park, subject to the provisions of Chapters 36 and 55 CDC.

2. Home occupations, subject to the provisions of Chapter 37 CDC.

3. Sign, subject to the provisions of Chapter 52 CDC.

4. Temporary uses, subject to the provisions of Chapter 35 CDC.

5. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.

6. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock 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. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.

7. Wireless communication facilities, subject to the provisions of Chapter 57 CDC. (Ord. 1308, 1991; Ord. 1408, 1998; Ord. 1565, 2008; Ord. 1624 § 7, 2014; Ord. 1635 § 13, 2014)

13.060 CONDITIONAL USES

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

1. Certified child care center.

2. Cultural exhibits and library services.

3. Lodge, social, community center and civic assembly.

4. Manufactured home subdivision subject to the provisions of Chapter 36 CDC.

5. Public safety facilities.

6. Public support facilities.

7. Recycle collection center.

8. Schools.

9. Senior center.

10. Utilities, major.

11. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria. (Ord. 1308, 1991; Ord. 1377, 1995; Ord. 1378, 1995; Ord. 1411, 1998; Ord. 1565, 2008; Ord. 1584, 2008; Ord. 1604 § 9, 2011; Ord. 1675 § 13, 2018)

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:

STANDARD		REQUIREMENT	ADDITIONAL NOTES
Minimum lot size			
	For single-family detached units	5,000 sf	No yard shall be required between units.
	For single-family attached units	4,500 sf	
	Average minimum lot or parcel size for a townhouse project	1,500 sf	
Minimum lot width at front lot line		35 ft	Does not apply to townhouses or cottage clusters
Average minimum lot width		35 ft	Does not apply to townhouses or cottage clusters
Minimum yard dimensions or minimum building setbacks			Except as specified in CDC 25.070(C)(1) through (4) for the Willamette Historic District. Front, rear, and side yard setbacks for a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.
	Front yard	20 ft	Except for steeply sloped lots where the provisions of CDC 41.010 shall apply
	Interior side yard	5 ft	Townhouse common walls that are attached may have a 0 ft side setback.
	Street side yard	15 ft	
	Rear yard	20 ft	
Maximum building height		35 ft	Except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply.
Maximum lot coverage		40%	Maximum lot coverage does not apply to duplexes, triplexes, quadplexes, townhouses or cottage clusters. However, the maximum building footprint for a cottage cluster is less than 900 sf per dwelling unit. • This does not include detached garages, carports, or accessory structures. • A developer may deduct up to 200 sf for an attached garage or carport.
Minimum accessway width to a lot which does not abut a street or a flag lot		15 ft	
Maximum floor area ratio		0.45	Maximum FAR does not apply to duplexes, triplexes, quadplexes, townhouses or cottage clusters. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard

STANDARD	REQUIREMENT	ADDITIONAL NOTES
		may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.

A. The sidewall provisions of Chapter 43 CDC shall apply. (Ord. 1377, 1995; Ord. 1538, 2006; Ord. 1614 § 4, 2013; Ord. 1622 § 24, 2014; Ord. 1675 § 14, 2018; Ord. 1736 § 1 (Exh. A), 2022)

13.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USE

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 11, 2014)

13.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

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

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Areas.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except attached and/or detached single-family dwellings, cottage clusters, townhouses, manufactured homes, accessory dwelling units, residential homes and residential facilities. (Ord. 1590 § 1, 2009; Ord. 1675 § 15, 2018; Ord. 1736 § 1 (Exh. A), 2022)

Chapter 14

RESIDENTIAL, R-4.5

Sections:

14.010 PURPOSE
14.020 PROCEDURES AND APPROVAL PROCESS
14.030 PERMITTED USES
14.040 ACCESSORY USES
14.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
14.060 CONDITIONAL USES
14.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
14.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES
14.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

14.010 PURPOSE

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

14.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 14.030, is a use which requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 14.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions, CDC 14.050, is a use for which approval will be granted provided all conditions are satisfied, and:

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. The approval of a conditional use (CDC 14.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance.

14.030 PERMITTED USES

The following are uses permitted outright in this zoning district:

1. Single-family attached or detached residential unit.

    a. Duplex residential units.

    b. Triplex residential units.

    c. Quadplex residential units.

2. Cottage cluster.

3. Family day care.

4. Townhouse.

5. Community recreation.

6. Residential home.

7. Utilities, minor.

8. Manufactured ~~housing~~home.

9. Transportation facilities (Type I). (Ord. 1180, 1986; Ord. 1226, 1988; Ord. 1248, 1989; Ord. 1354, 1994; Ord. 1584, 2008; Ord. 1736 § 1 (Exh. A), 2022)

14.040 ACCESSORY USES

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

14.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

Commentary:

According to the state's interpretation of ORS 197.307(4), if a housing type is allowed in a zone, there must be a clear and objective path to approval for that use. The City currently requires Conditional Use review for Senior citizen/handicapped housing facilities, per CDC 14.060(15). However, with a few relatively minor modifications, the conditions in that section can be converted into clear and objective standards, and the use can be relocated to this section for "Uses and Development Permitted Under Prescribed Conditions." That is the approach proposed for this section, as well as the equivalent sections in CDC 15.050 and 16.050.

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

1. Manufactured ~~home~~ dwelling park, subject to the provisions of Chapters 36 and 55 CDC.

2. Home occupations, subject to the provisions of Chapter 37 CDC.

3. Signs, subject to the provisions of Chapter 52 CDC.

4. Temporary uses, subject to the provisions of Chapter 35 CDC.

5. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.

6. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.

7. Senior citizen/handicapped housing facilities with a maximum number of units 50 percent above the allowed density for the property; provided that the following conditions shall apply:

   a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.

   b. Building height restrictions shall be the same as the subject zoning district.

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

   d. Congregate dining facilities providing regular daily meals for residents shall be provided.

   e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.

   f. The maximum number of units allowed in a senior citizen or handicapped housing facility shall be 50 percent above the allowed density for the property.

   g. The design of the building(s) and the site and landscaping plans shall be subject to Design Review, Chapter 55 CDC. Special considerations for this use are the following:

1) A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas for outdoor recreation, pedestrian access and amenities, and visual and sound buffering of adjacent properties.

2) No more than 25 percent of the total number of units may be used for nursing care patients.

3) Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the applicant requests discretionary review, and the approval authority board finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.

(Ord. 1226, 1988; Ord. 1408, 1998; Ord. 1565, 2008)

14.060 CONDITIONAL USES

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

1. Certified child care center.
2. Cultural exhibits and library services.
3. Lodge, social, community center and civic assembly.
4. Medical and dental offices or clinic.
5. Nursing home.
6. Postal services.
7. Professional and administrative services.
8. Public safety facilities.
9. Public support facilities.
10. Recycle collection center.
11. Religious institution.
12. Schools.
13. Senior center.
14. Utilities, major.

Commentary:

See commentary in Section 14.050.

~~15. Senior citizen/handicapped housing facilities with a maximum number of units 50 percent above the allowed density for the property; provided, that in addition to the provisions of Chapter 60 CDC, the following conditions shall apply:~~

~~a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.~~

~~b. Building height restrictions shall be the same as the subject zoning district.~~

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

~~d. Congregate dining facilities providing regular daily meals for residents shall be provided.~~

~~e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.~~

~~f. The maximum number of units allowed in a senior citizen or handicapped housing facility shall be as follows:~~

~~1) Medium high density district (R-2.1). The base density shall be 50 percent above the allowed density for the property.~~

~~2) Medium density district (R-4.5). The density shall be 50 percent above the allowed density for the property.~~

~~g. The design of the building(s) and the site and landscaping plans shall be subject to Design Review, Chapter 55 CDC. Special considerations for this use are the following:~~

~~1) Structures shall be compatible in style, color, materials, and scale with the general character of the neighborhood.~~

~~2) The building design and site layout shall define recognizable semi-public, semi-private and private spaces; ensure a sense of protection and community identity; and minimize barriers to handicapped or elderly persons.~~

~~3) A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas for outdoor recreation, pedestrian access and amenities, and adequate visual and sound buffering of adjacent properties.~~

~~4) No more than 25 percent of the total number of units may be used for nursing care patients.~~

~~5) Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the approval authority board finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.~~

15~~16~~. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria. (Ord. 1172, 1985; Ord. 1377, 1995; Ord. 1378, 1995; Ord. 1411, 1998; Ord. 1500, 2003; Ord. 1584, 2008; Ord. 1590 § 1, 2009; Ord. 1604 §§ 10, 11, 2011; Ord. 1675 § 16, 2018)

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:

STANDARD		REQUIREMENT	ADDITIONAL NOTES
Minimum lot size			
	For single-family detached units	4,500 sf	No yard shall be required between units.
	For single-family attached units	4,000 sf	
	Average minimum lot or parcel size for a townhouse project	1,500 sf	
Minimum front lot line Minimum lot width at front lot line		35 ft	Does not apply to townhouses or cottage clusters
Average minimum lot width		35 ft	Does not apply to townhouses or cottage clusters
Minimum yard dimensions or minimum building setbacks			Front, rear, and side yard setbacks for a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.
	Front yard	20 ft	Except for steeply sloped lots where the provisions of CDC 41.010 shall apply
	Interior side yard	5 ft	Townhouse common walls that are attached may have a 0-ft side setback.
	Street side yard	15 ft	
	Rear yard	20 ft	
Maximum building height		35 ft	Except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply.
Maximum lot coverage		40%	Maximum lot coverage does not apply to duplexes, triplexes, quadplexes, townhouses or cottage clusters. However, the maximum building footprint for a cottage cluster is less than 900 sf per dwelling unit. • This does not include detached garages, carports, or accessory structures. • A developer may deduct up to 200 sf for an attached garage or carport.
Minimum accessway width to a lot which does not abut a street or a flag lot		15 ft	
Maximum floor area ratio		0.45	Maximum FAR does not apply to duplexes, triplexes, quadplexes, townhouses or cottage clusters. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.

A. The sidewall provisions of Chapter 43 CDC shall apply. (Ord. 1538, 2006; Ord. 1622 § 24, 2014; Ord. 1675 § 17, 2018; Ord. 1736 § 1 (Exh. A), 2022)

14.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 12, 2014)

14.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

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

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Areas.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except attached and/or detached single-family dwellings, cottage clusters, townhouses, manufactured homes, accessory dwelling units, residential homes, and residential facilities. (Ord. 1590 § 1, 2009; Ord. 1675 § 18, 2018; Ord. 1736 § 1 (Exh. A), 2022)

Chapter 15

RESIDENTIAL, R-3

Sections:

15.010 PURPOSE
15.020 PROCEDURES AND APPROVAL PROCESS
15.030 PERMITTED USES
15.040 ACCESSORY USES
15.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
15.060 CONDITIONAL USES
15.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
15.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES
15.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

15.010 PURPOSE

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

15.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 15.030, is a use which requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 15.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions, CDC 15.050, is a use for which approval will be granted provided all conditions are satisfied; and

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. The approval of a conditional use (CDC 15.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance.

15.030 PERMITTED USES

The following uses are permitted outright in this zoning district:

1. Single-family attached or detached residential units.

    a. Duplex residential units.

    b. Triplex residential units.

    c. Quadplex residential units.

2. Cottage cluster.

3. Multiple-family residential unit.

4. Townhouse.

5. Group residential units.

6. Community recreation.

7. Family day care.

8. Residential home.

9. Utilities, minor.

10. Manufactured ~~housing~~home.

11. Transportation facilities (Type I). (Ord. 1226, 1988; Ord. 1354, 1994; Ord. 1500, 2003; Ord. 1584, 2008; Ord. 1736 § 1 (Exh. A), 2022)

15.040 ACCESSORY USES

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

15.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Home occupations, subject to the provisions of Chapter 37 CDC.
2. Signs, subject to the provisions of Chapter 52 CDC.
3. Temporary uses, subject to the provisions of Chapter 35 CDC.
4. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.
5. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.

Commentary:

See commentary in Section 14.050.

6. Senior citizen/handicapped housing facilities with a maximum number of units 50 percent above the allowed density for the property; provided, that the following conditions shall apply:

a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.

b. Building height restrictions shall be the same as the subject zoning district.

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

d. Congregate dining facilities providing regular daily meals for residents shall be provided.

e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.

f. The maximum number of units allowed in a senior citizen or handicapped housing facility shall be 50 percent above the allowed density for the property.

g. The design of the building(s) and the site and landscaping plans shall be subject to Chapter 55 CDC, Design Review. Special considerations for this use are the following:

1) A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas for outdoor recreation, pedestrian access and amenities, and visual and sound buffering of adjacent properties.

2) No more than 25 percent of the total number of units may be used for nursing care patients.

3) Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the applicant requests discretionary review, and the approval authority finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.

(Ord. 1408, 1998; Ord. 1565, 2008)

15.060 CONDITIONAL USES

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

1. Certified child care center.
2. Cultural exhibits and library services.
3. Lodge, social, community center and civic assembly.
4. Nursing home.
5. Public safety facilities.
6. Public support facilities.
7. Religious institution.
8. Residential facility.
9. Schools.
10. Senior center.
11. Utilities, major.

~~12. Senior citizen/handicapped housing facilities with a maximum number of units 50 percent above the allowed density for the property; provided, that in addition to the provisions of Chapter 60, the following conditions shall apply:~~

~~a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.~~

~~b. Building height restrictions shall be the same as the subject zoning district.~~

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

~~d. Congregate dining facilities providing regular daily meals for residents shall be provided.~~

~~e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.~~

~~f. The maximum number of units allowed in a senior citizen or handicapped housing facility shall be 50 percent above the allowed density for the property.~~

~~g. The design of the building(s) and the site and landscaping plans shall be subject to Chapter 55 CDC, Design Review. Special considerations for this use are the following:~~

~~1) Structures shall be compatible in style, color, materials, and scale with the general character of the neighborhood.~~

~~2) The building design and site layout shall define recognizable semi-public, semi-private, and private spaces; ensure a sense of protection and community identity; and minimize barriers to handicapped or elderly persons.~~

~~3) A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas for outdoor recreation, pedestrian access and amenities, and adequate visual and sound buffering of adjacent properties.~~

~~4) No more than 25 percent of the total number of units may be used for nursing care patients.~~

~~5) Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the approval authority finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.~~

12~~13~~. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria. (Ord. 1377, 1995; Ord. 1378, 1995; Ord. 1411, 1998; Ord. 1500, 2003; Ord. 1584, 2008; Ord. 1604 §§ 12, 13, 2011; Ord. 1675 § 19, 2018)

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:

STANDARD		REQUIREMENT	ADDITIONAL NOTES
Minimum lot size			
	For single-family detached units	3,000 sf	
	For single-family attached units	3,000 sf	
	Multifamily dwelling units	3,000 sf	
	Average minimum lot or parcel size for a townhouse project	1,500 sf	
Minimum lot width at front lot line		35 ft	Does not apply to townhouses or cottage clusters
Minimum yard dimensions or minimum building setbacks			Front, rear, and side yard setbacks for a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.
	Front yard	15 ft	Except for steeply sloped lots where the provisions of CDC 41.010 shall apply
	Garage	20 ft	
	Interior side yard	5 ft	Townhouse common walls that are attached may have a 0-ft side setback.
	Street side yard	15 ft	
	Rear yard	15 ft	Except that in the case of an apartment structure in this district, an additional yard area may be required between the structure in this district and any adjacent low density residential uses.
Maximum building height		35 ft	Except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply.
Maximum lot coverage		50%	Maximum lot coverage does not apply to duplexes, triplexes, quadplexes, townhouses or cottage clusters. However, the maximum building footprint for a cottage cluster is less than 900 sf per dwelling unit. • This does not include detached garages, carports, or accessory structures. • A developer may deduct up to 200 sf for an attached garage or carport.
Maximum floor area ratio		0.45	Maximum FAR does not apply to duplexes, triplexes, quadplexes, multi-family units, townhouses or cottage clusters. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands

STANDARD	REQUIREMENT	ADDITIONAL NOTES
		within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.

A. The sidewall provisions of Chapter 43 CDC shall apply. (Ord. 1538, 2006; Ord. 1622 § 24, 2014; Ord. 1675 § 20, 2018; Ord. 1736 § 1 (Exh. A), 2022)

15.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 13, 2014)

15.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

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

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Areas.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except attached and/or detached single-family dwellings, cottage clusters, townhouses, manufactured homes, accessory dwelling units, residential homes and residential facilities. (Ord. 1590 § 1, 2009; Ord. 1675 § 21, 2018; Ord. 1736 § 1 (Exh. A), 2022)

Chapter 16

RESIDENTIAL, R-2.1

Sections:

16.010 PURPOSE
16.020 PROCEDURES AND APPROVAL PROCESS
16.030 PERMITTED USES
16.040 ACCESSORY USES
16.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
16.060 CONDITIONAL USES
16.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
16.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES
16.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

16.010 PURPOSE

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

16.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 16.030, is a use which requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 16.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions, CDC 16.050, is a use for which approval will be granted provided all conditions are satisfied, and:

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. The approval of a conditional use (CDC 16.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance.

16.030 PERMITTED USES

The following are uses permitted outright in this zoning district:

1. Community recreation.
2. Townhouse.
3. Family day care.
4. Group residential units.
5. Multiple-family residential unit.
6. Residential home.
7. Single-family attached residential units.
    a. Attached duplex residential units.
    b. Attached triplex residential units.
    c. Attached quadplex residential units.
8. Cottage cluster.
9. Utilities, minor.
10. Transportation facilities (Type I). (Ord. 1226, 1988; Ord. 1248, 1989; Ord. 1276, 1990; Ord. 1584, 2008; Ord. 1736 § 1 (Exh. A), 2022)

16.040 ACCESSORY USES

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

16.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

Commentary:

In the current code, Conditional Use review is required in the R-2.1 zone for single-family detached dwellings and manufactured homes (per Section 16.060). As noted above, if a housing type is allowed in a zone, there must be a clear and objective path to approval for that use. Therefore, the City can no longer list these housing types as Conditional Uses.

The proposed solution is to instead list these housing types as *Uses Permitted Under Prescribed Conditions*. The code would then point to the Mix Requirements in Chapter 85, which would serve to limit single-family development in R-2.1.

> 85.200(J)(8*).* *Mix requirement. The "mix" rule means that developers shall have no more than 15 percent of the R-2.1 and R-3 development as single-family residential. The intent is that the majority of the site shall be developed as medium high density multi-family housing.*

This would remain consistent with the intent of the R-2.1 zone, which is the City's highest-density residential zone, and currently allows multi-family housing as well as attached single-family (and other middle housing types). According to staff, detached and attached units have been differentiated in the R-2.1 zone as least as far back as 1983.

In addition, the same approach for Senior citizen/handicapped housing facilities is proposed below as was proposed for the R-4.5 and R-3 zones. Refer to the commentary in Section 14.050.

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

1. Home occupations, subject to the provisions of Chapter 37 CDC.
2. Signs, subject to the provisions of Chapter 52 CDC.
3. Temporary uses, subject to the provisions of Chapter 35 CDC.
4. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.
5. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.
6. Single-family detached residential units, subject to the provisions of CDC 85.200(J)(8).
   a. Detached duplex residential units.
   b. Detached triplex residential units.
   c. Detached quadplex residential units.
7. Manufactured homes, subject to the provisions of CDC 85.200(J)(8).
8. Senior citizen/handicapped housing facilities with a maximum number of units 50 percent above the allowed density for the property; provided, that the following conditions shall apply:
   a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.
   b. Building height restrictions shall be the same as the subject zoning district.

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

d. Congregate dining facilities providing regular daily meals for residents shall be provided.

e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.

f. The maximum number of units allowed in a senior citizens or handicapped housing facility shall be 50 percent above the allowed density for the property.

g. The design of the building(s) and the site and landscaping plans shall be subject to design review, Chapter 55 CDC. Special considerations for this use are the following:

1) A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas for outdoor recreation, pedestrian access and amenities, and adequate visual and sound buffering of adjacent properties.

2) No more than 25 percent of the total number of units may be used for nursing care patients.

3) Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the applicant requests discretionary review, and the approval authority finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.

(Ord. 1276, 1990; Ord. 1408, 1998; Ord. 1565, 2008)

16.060 CONDITIONAL USES

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

1. Certified child care center.
2. Convenience sales and personal services.
3. Cultural exhibits and library services.
4. Lodge, social, community center and civic assembly.
5. Medical and dental offices or clinic.
6. Nursing home.
7. Postal services.
8. Professional and administrative services.
9. Public safety facilities.
10. Public support facilities.
11. Recycle collection center.
12. Religious institution.
13. Residential facility.
14. Schools.

~~15. Single-family detached residential unit.~~

~~a. Detached duplex residential units.~~

~~b. Detached triplex residential units.~~

~~c. Detached quadplex residential units.~~

15~~16~~. Utilities, major.

~~17. Senior citizen/handicapped housing facilities with a maximum number of units 50 percent above the allowed density for the property; provided, that in addition to the provisions of Chapter 60 CDC the following conditions shall apply:~~

~~a. Facilities intended for senior citizens shall be restricted to persons 60 years and older. In the case of couples, one member of the couple shall be 60 years or older.~~

~~b. Building height restrictions shall be the same as the subject zoning district.~~

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

~~d. Congregate dining facilities providing regular daily meals for residents shall be provided.~~

~~e. A minimum of 10 square feet of general storage area other than regular kitchen, bedroom and linen storage shall be provided within each unit. Complexes which do not include laundry facilities in the units shall have adequate laundry facilities accessible to all tenants.~~

~~f. The maximum number of units allowed in a senior citizens or handicapped housing facility shall be as follows:~~

~~1) Medium high density district (R-2.1). The base density shall be 50 percent above the allowed density for the property.~~

~~2) Medium density district (R-4.5). The density shall be 50 percent above the allowed density for the property.~~

~~g. The design of the building(s) and the site and landscaping plans shall be subject to design review, Chapter 55 CDC. Special considerations for this use are the following:~~

~~1) Structures shall be compatible in style, color, materials, and scale with the general character of the neighborhood.~~

~~2) The building design and site layout shall define recognizable semi-public, semi-private and private spaces; ensure a sense of protection and community identity; and minimize barriers to handicapped or elderly persons.~~

~~3) A minimum of 25 percent of the property shall be in landscaping. The landscaping shall include areas for outdoor recreation, pedestrian access and amenities, and adequate visual and sound buffering of adjacent properties.~~

~~4) No more than 25 percent of the total number of units may be used for nursing care patients.~~

~~5) Minimum front, rear and side yard setbacks shall be the same as the underlying district unless the approval authority finds that a greater setback is indicated by uses and structures on surrounding properties or unique circumstances of the site.~~

16~~18~~. Senior center.

~~19. Manufactured housing.~~

17~~20~~. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria. (Ord. 1172, 1985; Ord. 1276, 1990; Ord. 1354, 1994; Ord. 1377, 1995; Ord. 1378, 1995; Ord. 1411, 1998; Ord. 1500, 2003; Ord. 1584, 2008; Ord. 1604 §§ 14, 15, 2011; Ord. 1675 § 22, 2018; Ord. 1736 § 1 (Exh. A), 2022)

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:

STANDARD		REQUIREMENT	ADDITIONAL NOTES
Minimum lot size			
	For single-family detached units	4,000 sf	
	For each attached single-family units	2,700 sf	
	For a boarding, lodging or rooming house	7,000 sf	
	For each multifamily dwelling units	2,100 sf	
	Average minimum lot or parcel size for a townhouse project	1,500 sf	
Minimum lot width at front lot line		35 ft	Does not apply to townhouses or cottage clusters
Average minimum lot width		35 ft	Does not apply to townhouses or cottage clusters
Minimum yard dimensions or minimum building setbacks			Front, rear, and side yard setbacks for a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.
	Front yard	15 ft	Except for steeply sloped lots where the provisions of CDC 41.010 shall apply
	Interior side yard	5 ft	Townhouse common walls that are attached may have a 0-ft side setback.
	Street side yard	15 ft	
	Rear yard	15 ft	Except that in the case of an apartment structure in this district, an additional yard area may be required between the structure in this district and any adjacent low-density residential uses
Maximum building height		35 ft	Except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply; 3.5 stories or 45 feet for a garden apartment medium rise unit; Multifamily dwelling units are limited to 3.5 stories in height.
Maximum lot coverage		50%	Maximum lot cover does not apply to duplexes, triplexes, quadplexes, townhouses or cottage clusters. However, the maximum building footprint for a cottage cluster is less than 900 sf per dwelling unit. • This does not include detached garages, carports, or accessory structures.

STANDARD	REQUIREMENT	ADDITIONAL NOTES
		• A developer may deduct up to 200 sf for an attached garage or carport.
Maximum floor area ratio	0.45	Maximum FAR does not apply to duplexes, triplexes, quadplexes, multi-family units, townhouses or cottage clusters. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.

A. The sidewall provisions of Chapter 43 CDC shall apply. (Ord. 1538, 2006; Ord. 1622 § 24, 2014; Ord. 1675 § 23, 2018; Ord. 1736 § 1 (Exh. A), 2022)

16.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application, based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 14, 2014)

16.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

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

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Areas.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except attached and/or detached single-family dwellings, cottage clusters, townhouses, manufactured homes, accessory dwelling units, residential homes, and residential facilities. (Ord. 1590 § 1, 2009; Ord. 1675 § 24, 2018; Ord. 1736 § 1 (Exh. A), 2022)

Commentary:

See the commentary box in Section 19.090 for minor amendments in the GC and OBC zones. Also refer to the commentary box at the beginning of Chapter 08, which explains proposed amendments that apply to all base zones.

No other substantive changes are proposed for the Commercial and Industrial Zone chapters.

Chapter 18

NEIGHBORHOOD COMMERCIAL, NC

Sections:

18.010 PURPOSE
18.020 PROCEDURES AND APPROVAL PROCESS
18.030 PERMITTED USES
18.040 ACCESSORY USES
18.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
18.060 CONDITIONAL USES
18.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
18.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES
18.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

18.010 PURPOSE

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

18.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 18.030, is a use which requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 18.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions, CDC 18.050, is a use for which approval will be granted provided all conditions are satisfied, and:

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. The approval of a conditional use (CDC 18.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance.

18.030 PERMITTED USES

The following are uses permitted outright in this zone:

1. Convenience grocery store.

2. Cultural exhibits and library services.

3. Family day care.

4. Utilities, minor.

5. Transportation facilities (Type I).

6. Residential units above a permitted use. (Ord. 1226, 1988; Ord. 1401, 1997; Ord. 1590 § 1, 2009; Ord. 1613 § 2, 2013; Ord. 1736 § 1 (Exh. A), 2022)

18.040 ACCESSORY USES

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

18.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Signs, subject to the provisions of Chapter 52 CDC.
2. Temporary use, subject to the provisions of Chapter 35 CDC.
3. Wireless communication facilities, subject to the provisions of Chapter 57 CDC. (Ord. 1408, 1998)

18.060 CONDITIONAL USES

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

1. Certified child care center.
2. Consumer repair services.
3. Convenience sales and personal services.
4. Food and beverage retail sales.
5. Financial, insurance and real estate services.
6. Nursery.
7. Medical and dental services.
8. Personal service facilities.
9. Professional and administrative services.
10. Utilities, major.
11. Extended-hour businesses. CUPs shall be required when:
    a. New extended-hour business is proposed by construction of a new building.
    b. Expansion of the size of existing buildings for use by an extended-hour business is proposed.
12. Postal services.
13. Public safety facilities.
14. Public support facilities.
15. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria. (Ord. 1180, 1986; Ord. 1401, 1997; Ord. 1402, 1997; Ord. 1590 § 1, 2009; Ord. 1675 § 25, 2018)

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

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

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

2. The average minimum lot width shall be 35 feet.

3. *Repealed by Ord. 1622.*

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.

5. The maximum lot coverage shall be 50 percent; however, the above requirements in this section may be modified for developments under the planned unit development provisions of Chapter 24 CDC.

6. The maximum building height shall be two and one-half stories, or 35 feet. (Ord. 1622 § 24, 2014)

18.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

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

18.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

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

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Areas.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except existing detached single-family dwellings. (Ord. 1590 § 1, 2009; Ord. 1675 § 26, 2018)

Chapter 19

GENERAL COMMERCIAL, GC

Sections:

19.010 PURPOSE
19.020 PROCEDURES AND APPROVAL PROCESS
19.030 PERMITTED USES
19.040 ACCESSORY USES
19.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
19.060 CONDITIONAL USES
19.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
19.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES
19.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

19.010 PURPOSE

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

19.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 19.030, is a use which requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 19.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions, CDC 19.050, is a use for which approval will be granted provided all conditions are satisfied, and:

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 19.060.

C. A conditional use, CDC 19.060, is a use the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance.

19.030 PERMITTED USES

The following uses are permitted outright in this zone:

1. Agricultural sales.
2. Agricultural services.
3. Animal sales and services, grooming.
4. Building maintenance services.
5. Business equipment sales and services.
6. Business support services.
7. Communications services.
8. Consumer repair services.
9. Convenience sales and personal services.
10. Eating and drinking establishments.
11. Drive-through restaurants.
12. Family day care.
13. Financial, insurance and real estate services.
14. Food and beverage retail sales.
15. General retail services.
16. Hotel/motel, including those operating as extended hour businesses.
17. Laundry services.
18. Senior center.
19. Medical and dental services.
20. Parking facilities.
21. Participant sports and recreation, indoor.
22. Personal service facilities.
23. Professional and administrative services.
24. Research services.
25. Utilities, minor.
26. Cultural exhibits and library services.
27. Extended-hour businesses that do not include the construction of a new building or expansion of an existing structure.

28. Transportation facilities (Type I).

29. Lodge, social, community center, and civic assembly within the commercial districts along Highway 43, Salamo Road or Blankenship Road.

30. Religious institutions within the commercial districts along Highway 43, Salamo Road, or Blankenship Road. (Ord. 1226, 1988; Ord. 1411, 1998; Ord. 1590 § 1, 2009; Ord. 1622 § 23, 2014; Ord. 1655 § 2, 2016)

19.040 ACCESSORY USES

1. Manufacture or repackaging of goods for on-site sale. (Ord. 1686 § 2, 2018)

19.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Residential units above a permitted use or a commercial use or place of assembly authorized as a conditional use (e.g., children's day care center, superstore, amusement enterprise, transient lodging, religious institution, school, lodge or community center), and multiple-family units: as a mixed use in conjunction with commercial development, only above the first floor of the structure.

2. Animal sales and services: kennels, as prescribed with no exterior runs or storage.

3. Animal sales and services: veterinary (small animals), as prescribed with no exterior runs or storage.

4. Signs, subject to the provisions of Chapter 52 CDC.

5. Temporary use, subject to the provisions of Chapter 35 CDC.

6. Home occupations, subject to the provisions of Chapter 37 CDC.

7. Wireless communication facilities, subject to the provisions of Chapter 57 CDC. (Ord. 1192, 1987; Ord. 1385, 1996; Ord. 1565, 2008; Ord. 1613 § 3, 2013; Ord. 1638 § 3, 2015; Ord. 1736 § 1 (Exh. A), 2022)

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:

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

19. Recycle collection center.

20. *Repealed by Ord. 1622*.

21. Postal services.

22. Religious institutions not listed as permitted uses in CDC 19.030.

23. Schools (with under 200 students).

24. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria.

25. Lodge, fraternal, community center and civic assembly not listed as permitted uses in CDC 19.030.

26. Extended hour businesses that include a new building or expansion of an existing structure. (Ord. 1192, 1987; Ord. 1339, 1992; Ord. 1463, 2000; Ord. 1523, 2005; Ord. 1590 § 1, 2009; Ord. 1604 §§ 16, 17, 2011; Ord. 1622 § 23, 2014; Ord. 1675 § 27, 2018; Ord. 1736 § 1 (Exh. A), 2022)

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

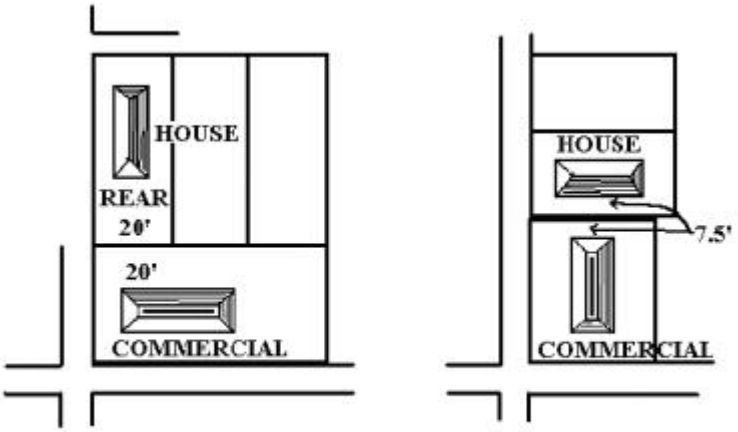
A. Except as may be otherwise provided by the provisions of this code, the following are the requirements for uses within this zone:

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

2. The average minimum lot width shall be 50 feet.

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

4. Where the use abuts a residential district, except as provided in CDC 58.090(C)(1), the setback distance of the residential zone shall apply.



SETBACK OF ABUTTING HOUSE
DICTATES COMMERCIAL SETBACK

5. The maximum lot coverage shall be 50 percent, except as provided in CDC 58.090(C)(1)(d).

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

7. For lot lines that abut an arterial, there shall be no minimum yard dimensions or minimum building setback area, and the maximum building setback shall be 20 feet. The front setback area between the street and the building line shall consist of landscaping or a combination of non-vehicular hardscape areas (covered with impervious surfaces) and landscaped areas. 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.

B. The requirements of subsections (A)(1) through (5) of this section may be modified for developments under the planned unit development provisions of Chapter 24 CDC. (Ord. 1401, 1997; Ord. 1425, 1998; Ord. 1614 § 5, 2013; Ord. 1622 § 24, 2014)

19.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 15, 2014)

19.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

Commentary:

Currently, new detached single-family dwellings are not permitted in the GC zone. They are listed in subsection (B) below as being exempt from Chapter 55 Design Review because existing single-family homes are allowed to remain (regulated as conditional uses per CDC 65.030(A)). However, the further exemptions from Design Review for conversion of single-family homes into duplexes, triplexes, quadplexes, or cottage clusters seems contradictory, since those other housing types are not permitted in the GC zone (conditionally or otherwise). Therefore, the exemptions for conversion to plexes and cottage clusters have been struck out. This same approach is taken in the OBC zone (Section 21.090).

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

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Areas.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except detached single-family dwellings ~~and/or their conversion into a duplex, triplex, or quadplex, and the addition of cottages in a cottage cluster with the preexisting non-conforming detached single-family dwelling located on the same lot~~ and approved conditional use applications pursuant to CDC 60.030(C). (Ord. 1590 § 1, 2009; Ord. 1635 § 14, 2014; Ord. 1675 § 28, 2018; Ord. 1736 § 1 (Exh. A), 2022)

Chapter 21

OFFICE BUSINESS CENTER, OBC

Sections:

21.010 PURPOSE
21.020 PROCEDURES AND APPROVAL PROCESS
21.030 PERMITTED USES
21.040 *REPEALED*
21.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
21.060 CONDITIONAL USES
21.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
21.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES
21.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

21.010 PURPOSE

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

21.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 21.030, is a use that requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 21.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions, CDC 21.050, is a use for which approval will be granted provided all conditions are satisfied, and:

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. The approval of a conditional use (CDC 21.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

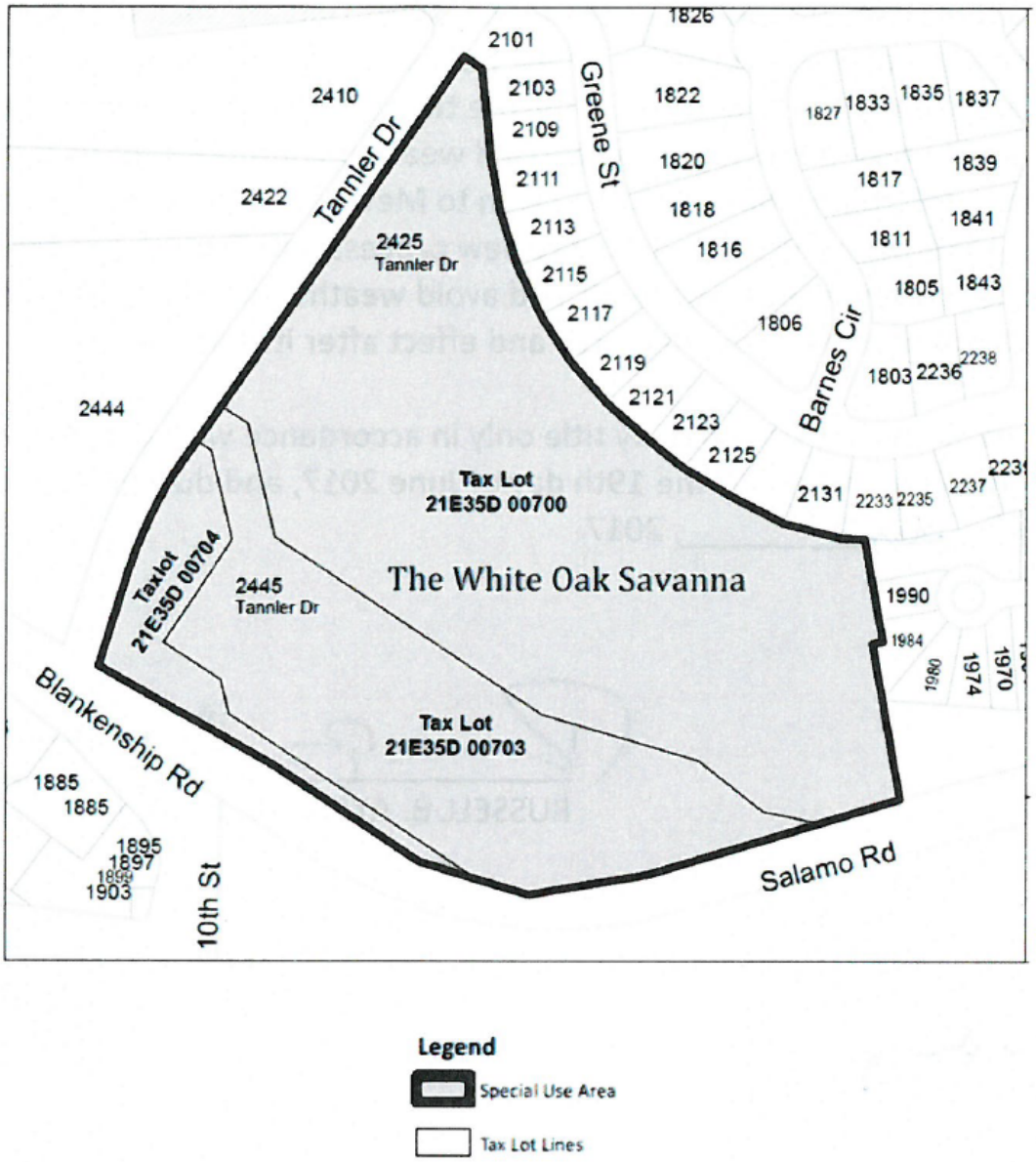
4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance. (Ord. 1463, 2000)

21.030 PERMITTED USES

The following uses are permitted outright in this zone:

1. Business equipment sales and services.
2. Business support services.
3. Communications services.
4. Cultural exhibits and library services.
5. Family day care.
6. Financial, insurance and real estate services.
7. Hotel/motel, including those operating as extended hour businesses.
8. Medical and dental services.
9. Parking facilities.
10. Participant sports and recreation, indoor.
11. Personal services and facilities.
12. Professional and administrative services.
13. Utilities, minor.
14. Transportation facilities (Type I).
15. Special use areas only if located on those properties indicated on the map below.



(Ord. 1226, 1988; Ord. 1401, 1997; Ord. 1590 § 1, 2009; Ord. 1622 § 23, 2014; Ord. 1660 § 1, 2017)

21.040 ACCESSORY USES

Repealed by Ord. 1622.

21.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Animal sales and services: veterinary (small animals) as prescribed with no exterior runs or storage.

2. Multiple-family units only above the first floor of the structure, as a mixed use in conjunction with commercial development that utilizes the entire first floor.

3. Signs, subject to the provisions of Chapter 52 CDC.

4. Temporary use, subject to the provisions of Chapter 35 CDC.

5. Home occupation, subject to provisions of Chapter 37 CDC.

6. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.

7. Eating and drinking establishments that do not constitute more than 20 percent of the total floor area of the building in which it is located. (Ord. 1226, 1988; Ord. 1408, 1998; Ord. 1442, 1999; Ord. 1565, 2008; Ord. 1647 § 2, 2016; Ord. 1655 § 3, 2016)

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:

1. Certified child care center.

2. Convenience sales and personal services.

3. Food and beverage retail sales.

4. Heliports.

5. Research services.

6. *Repealed by Ord. 1622.*

7. Utilities, major.

8. Vehicle fuel sales.

9. All single-family homes, which were non-conforming structures and were damaged, whereby the cost of rebuilding the damaged portions would exceed 50 percent of the then current replacement cost of the entire building. Determination of rebuilding costs shall be per CDC 66.070(A).

10. Postal services.

11. Public safety facilities.

12. Public support facilities.

13. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria. (Ord. 1172, 1985; Ord. 1401, 1997; Ord. 1590 § 1, 2009; Ord. 1604 § 18, 2011; Ord. 1622 § 23, 2014; Ord. 1675 § 29, 2018; Ord. 1736 § 1 (Exh. A), 2022)

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. *Repealed by Ord. 1622.*

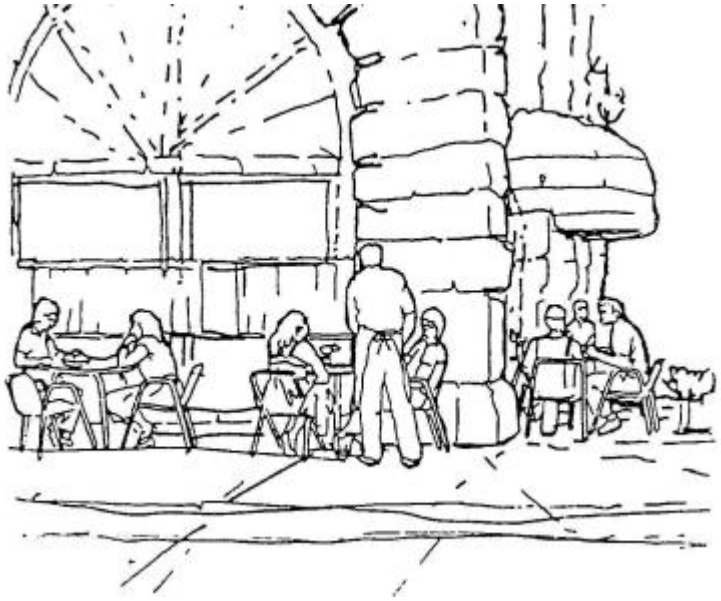
4. The yard dimensions or building setback area from the lot line shall be:

   a. Interior side yard, a minimum of seven and one-half feet.

   b. Side yard abutting a street, no minimum.

   c. Rear yard, a minimum of 25 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.



5. The maximum lot coverage shall be 50 percent.

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

B. The requirements of subsections (A)(1) through (4) of this section may be modified for developments under the planned unit development provisions of Chapter 24 CDC. (Ord. 1425, 1998; Ord. 1622 § 24, 2014)

21.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 16, 2014)

21.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

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

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Areas.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except detached single-family dwellings ~~and/or their conversion into a duplex, triplex, or quadplex, and the addition of cottages in a cottage cluster with the preexisting non-conforming detached single-family dwelling located on the same lot~~ . (Ord. 1590 § 1, 2009; Ord. 1675 § 30, 2018; Ord. 1736 § 1 (Exh. A), 2022)

Chapter 22

CAMPUS INDUSTRIAL, CI

Sections:

22.010 PURPOSE
22.020 PROCEDURES AND APPROVAL PROCESS
22.030 PERMITTED USES
22.040 ACCESSORY USES
22.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
22.060 CONDITIONAL USES
22.070 DIMENSIONAL REQUIREMENTS FOR USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
22.080 DEVELOPMENT STANDARDS
22.090 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES
22.100 OTHER APPLICABLE DEVELOPMENT STANDARDS

22.010 PURPOSE

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

22.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 22.030, is a use which requires no approval under the provisions of this code, except that all uses require design review pursuant to CDC 22.100(11). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions, CDC 22.050, is a use for which approval will be granted provided all conditions are satisfied, and:

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. The approval of a conditional use (CDC 22.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance.

22.030 PERMITTED USES

The following uses are permitted outright in this zone:

1. Research services.

2. Manufacturing of finished products; provided, that:

   a. The use is employee intensive, providing approximately 15 or more jobs for every developed acre of land.

   b. The use is not of a type or intensity which produces odor, smoke, fumes, noise, glare, heat or vibrations which are incompatible with other primary uses allowed in this district.

   c. The physical and operational requirements of the use, including type of structure used and volume of heavy traffic generated, are similar to other industrial and office uses allowed in this district.

3. Business support services.

4. Personal service facilities primarily serving the business community within the area.

5. Corporate headquarters or regional offices with 50 or more employees.

6. Offices, except corporate headquarters or regional offices allowed under subsection 5 of this section, and those offices specified as limited uses under CDC 22.050(B), may occupy up to 70 percent of the total floor area of the development.

7. Participant sports and recreation, indoor and outdoor, developed to serve primarily the recreational needs of residents and employees of the district.

8. Transportation facilities (Type I). (Ord. 1590 § 1, 2009)

22.040 ACCESSORY USES

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

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

22.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Convenience sales and personal services.

2. Banks.

3. Medical and dental services.

4. Eating and drinking establishments.

5. Drive-through restaurants.

6. Drive-through window service for all uses allowed in this subsection in conjunction with the limitations in subsection B of this section.

B. Limitations and conditions on the development of the uses in subsection A of this section shall be as follows:

1. The total combined floor area occupied by all the listed uses shall not exceed 10 percent of the total floor area occupied by the permitted use. Formula: 0.10 times permitted floor area equals listed use floor area.

2. All listed uses shall be located, arranged and integrated within the development to serve primarily the shopping and service needs of employees of the district.

3. No outdoor storage of materials associated with the listed use shall be allowed.

4. Uses shall not be of a type or intensity which produces odor, smoke, fumes, noise, glare, heat or vibrations which are incompatible with associated permitted uses in the area.

5. All listed uses shall comply with the dimensional and development standards under CDC 22.070 and 22.080.

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

1. Sign, subject to the provisions of Chapter 52 CDC.

2. Temporary use, subject to the provisions of Chapter 35 CDC.

3. Water dependent uses, subject to the provisions of Chapters 28 and 34 CDC.

4. Wireless communication facilities, subject to the provisions of Chapter 57 CDC. (Ord. 1408, 1998; Ord. 1655 § 4, 2016)

22.060 CONDITIONAL USES

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

1. Will have minimal adverse impact on the appropriate development of permitted uses on abutting properties and the surrounding area considering location, size, design and operating characteristics of the use.

2. Will not create offensive odor, dust, smoke, fumes, noise, glare, heat or vibrations which are incompatible with permitted uses allowed in this zone.

3. Will be located on a site occupied by a permitted use or a use permitted under prescribed conditions or, if separate, in a structure which is compatible with the character and scale of uses allowed within the district, and on a site no larger than necessary for the use and operational requirements of the use.

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

5. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria.

B. Uses allowed subject to the above conditions are:

1. Transient lodging and associated convention facilities.

2. Heliports.

3. Retail and service commercial uses.

4. Household hazardous waste depot. (Ord. 1172, 1985; Ord. 1339, 1993; Ord. 1590 § 1, 2009)

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

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

1. Encourage coordinated development, and the most efficient and maximum use of campus industrial districts.

2. Provide for adequate structure separation to ensure air and light access, and fire safety and protection for all.

3. Provide for a compatible mix of uses supportive of public transportation facilities.

4. Provide for the protection of adjacent properties.

5. Provide for open space and outdoor activity areas.

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

1. A parcel or lot, or tract.

2. Two or more contiguous tracts, lots or parcels under separate ownership; provided, that:

a. All individual property owners are members of a group formed for the purpose of developing the properties as a single planned development; or

b. All individual ownerships are converted into development shares prior to any building permit being issued for the project; or

c. The owners shall record, in the office of the City Recorder, a contract in which all owners agree to subject the use and development of individual ownerships to the development plan for the site area as approved by the City. No permit shall be issued on any structure or use not indicated on the City-approved development plan for the site area.

C. Minimum site area size requirements.

1. Developments which include uses under at least two of the permitted use categories under CDC 22.030 shall require a minimum site area of three acres.

2. Developments which include only uses under CDC 22.030(1) through (5), and accessory uses, shall require a minimum site area of two acres.

3. Developments which include only uses under CDC 22.030(7) shall require a minimum site area of one acre.

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

E. Floor area ratio. The maximum floor area for all permitted and conditional uses within a site area shall not exceed the net site area multiplied by one (1:1).

F. Floor area requirements. Any permitted use or combination of permitted uses under CDC 22.030 may be allowed within a development in this district at floor area percentages, excluding accessory uses, not exceeding those illustrated on the following table:

Floor Area Limitations for Permitted Use Categories Under CDC 22.030

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

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

G. The requirements under this section may be modified or waived by the Director pursuant to the provisions of CDC 99.060. Approval shall not be granted unless the applicant provides evidence substantiating conditions in subsections (G)(1) through (3), or (G)(4), of this section:

1. The modification or waiver is consistent with the purposes under this section; and

2. The need for the use for which additional floor area is requested is at least as great as the need for other compatible permitted uses allowed in this district; and

3. The proposed use, and location of the use, is compatible with, and complementary to, existing or proposed developments within the district area; or

4. A substantial mix of permitted uses has been established within the immediate district area to the extent that all permitted use categories under Section 22.030 are represented.

H. Lot coverage. The maximum lot coverage for all structures shall be 55 percent of the net site area, after any required dedications for roadway purposes. A minimum of 25 percent of the development site area shall be used for landscaping, natural areas or outdoor recreational use area.

I. Minimum perimeter setback is 15 feet.

1. The following uses may be allowed within a perimeter setback area which fronts on a public road:

   a. Landscaping.

   b. Bikeways, trails, pedestrian walks and plazas.

   c. Access driveways.

   d. Bus shelters and other pedestrian amenities.

   e. Identification signs.

2. The following uses may be allowed within perimeter setback areas which are adjacent to other site areas:

   a. Landscaping.

   b. Bikeways, trails, pedestrian walks, patios, courts.

   c. On-site directional signs.

   d. Coordinated joint use circulation drives, parking, loading, recreational activity areas, plazas.

e. Coordinated joint use structures, subject to provisions of the Uniform Building Code.

J. Minimum street frontage is 50 feet.

K. Maximum building height. The maximum building height shall be two and one-half stories or 35 feet for any structure located within 50 feet of a residential zone and three and one-half stories or 45 feet for any structure located 50 feet or more from a residential zone. (Ord. 1622 § 24, 2014; Ord. 1636 § 17, 2014)

22.080 DEVELOPMENT STANDARDS

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

A. Building siting and design. The design and siting of structures in this district shall comply with the following:

1. Particular attention shall be given to the siting and design of all structures, and portions thereof, which may be viewed by the public from inside and outside the development.

2. When more than one permitted use is to be included in a site area, structures and uses shall be arranged and clustered to maximize opportunities for shared circulation, parking, loading, pedestrian walkways and plazas, recreation areas, transit-related facilities, and day and night surveillance.

B. Access and on-site circulation. In addition to the provisions of Chapter 48 CDC, the location, design and development of on-site circulation shall:

1. Provide, as appropriate, joint access and circulation drives through and between developments.

2. Provide continuous pedestrian and bicycle access to permitted and accessory uses, and uses permitted under prescribed conditions within and between developments, and conveniently located bicycle storage to service the various uses.

3. Provide on-site directional signing identifying the location of all uses within the development.

4. Minimize barriers to handicapped and elderly persons.

C. Parking and loading requirements. The provisions of Chapter 46 CDC shall apply, except as modified to address the following objectives:

1. Locate parking areas to maximize the potential for shared parking between on- and off-site complementary uses, as provided under Chapter 46 CDC.

2. Encourage the provision of priority parking spaces convenient to the building entrances for employee carpool vehicles.

3. Maximize the joint use of truck loading and maneuvering areas between on-site and adjacent off-site complementary uses.

4. Locate necessary commercial or recreational vehicle storage in areas which are generally inappropriate for permitted use parking, and buffer such areas from residential uses. No parking or loading space required under Chapter 46 CDC shall be used for storing a commercial or recreational vehicle.

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

1. Enhance the appearance of the site internally and from a distance.

2. Include street trees and streetside landscaping. (Trees and ground cover shall be selected from those recommended in the adopted design plan, as applicable.)

3. Provide an integrated open space and pedestrian way system within the development with appropriate connections to surrounding properties.

4. Include, as appropriate, a bikeway, pedestrian walkway or jogging trail.

5. Provide buffering or transitions between uses.

6. Encourage outdoor eating areas conveniently located for use by employees.

7. Encourage outdoor recreation areas appropriate to serve all the uses within the development.

E. Fences. Periphery fences shall not be allowed within this district. Decorative fences or walls may be used to screen service and loading areas, private patios or courts. Fences may be used to enclose playgrounds, tennis courts, or to secure sensitive areas or uses, such as vehicle storage areas or drainage detention facilities. Fences shall not be located where they impede pedestrian or bicycle circulation through or between site areas.

F. Signs. One freestanding or ground-mounted sign may be provided for a development pursuant to Chapter 52 CDC.

G. Outdoor storage. No outdoor storage of materials shall be allowed within this district.

H. The requirements of subsections A through G of this section may be modified for developments under the planned unit development provisions of Chapter 24 CDC.

22.090 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by CDC 22.070, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 18, 2014)

22.100 OTHER APPLICABLE DEVELOPMENT STANDARDS

The following standards apply to all development including permitted uses:

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Areas.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

11. Chapter 55 CDC, Design Review. (Ord. 1590 § 1, 2009; Ord. 1675 § 31, 2018)

Chapter 23

GENERAL INDUSTRIAL, GI

Sections:

23.010 PURPOSE
23.020 PROCEDURES AND APPROVAL PROCESS
23.030 PERMITTED USES
23.040 ACCESSORY USES
23.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
23.060 CONDITIONAL USES
23.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
23.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES
23.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

23.010 PURPOSE

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

23.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 23.030, is a use which requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 23.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions, CDC 23.050, is a use for which approval will be granted provided all conditions are satisfied; and

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. The approval of a conditional use (CDC 23.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance.

23.030 PERMITTED USES

The following uses are uses permitted outright in this zone:

1. Agricultural sales and services.
2. Animal sales and services:
   a. Kennels.
   b. Veterinary, small and large animals.
3. Automotive and equipment:
   a. Cleaning.
   b. Fleet storage.
   c. Repairs, light and heavy equipment.
   d. Sales/rentals, light and heavy equipment.
   e. Storage, recreational vehicles and boats.
4. Construction sales and services.
5. Laundry services.
6. Manufacturing of products:
   a. From raw materials.
   b. From previously prepared materials.
7. Packaging and processing.
8. Postal service.
9. Public safety facilities.
10. Public support facilities.
11. Research services.
12. Scrap operations, recycling collection center.
13. Utilities, minor and major.
14. Wholesale, storage and distribution:
    a. Mini-warehouse.
    b. Light.
    c. Heavy.
15. Transportation facilities (Type I). (Ord. 1590 § 1, 2009)

23.040 ACCESSORY USES

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

23.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Sign, subject to the provisions of Chapter 52 CDC.
2. Temporary use, subject to the provisions of Chapter 35 CDC.
3. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.
4. Wireless communication facilities, subject to the provisions of Chapter 57 CDC. (Ord. 1408, 1998)

23.060 CONDITIONAL USES

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

1. Heliport.

2. Household hazardous waste depot.

3. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria. (Ord. 1339, 1993; Ord. 1590 § 1, 2009)

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 or the minimum lot width at the front lot line shall be 50 feet.

2. The average minimum lot width shall be 50 feet.

3. *Repealed by Ord. 1622.*

4. Where the use abuts a residential district, the setback distance of the residential zone shall apply.

5. The maximum lot coverage shall be 50 percent.

6. The maximum building height shall be two and one-half stories or 35 feet for any structure located within 100 feet of a residential zone and three and one-half stories or 45 feet for any structure located 100 feet or more from a residential zone.

B. The requirements of subsections (A)(1) through (5) of this section may be modified for developments under the planned unit development provisions of Chapter 24 CDC. (Ord. 1622 § 24, 2014)

23.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 19, 2014)

23.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

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

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 35 CDC, Temporary Structures and Uses.

3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

4. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

5. Chapter 42 CDC, Clear Vision Areas.

6. Chapter 44 CDC, Fences.

7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

8. Chapter 48 CDC, Access, Egress and Circulation.

9. Chapter 52 CDC, Signs.

10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except existing detached single-family dwellings. (Ord. 1590 § 1, 2009; Ord. 1675 § 32, 2018)

Chapter 24

PLANNED UNIT DEVELOPMENT

Commentary:

Planned Unit Development (PUD) is a discretionary process that provides an optional alternative to a typical subdivision or site development. Because it is optional, few amendments related to clear and objective requirements are proposed. However, one amendment is necessary for consistency with the state statute and a few other amendments are proposed to clarify requirements.

See additional commentary in Sections 24.070, .080, and .090.

Sections:

24.010 PURPOSE
24.020 ADMINISTRATION AND APPROVAL PROCESS
24.030 EXPIRATION OR EXTENSION OF APPROVAL
24.040 NON-COMPLIANCE – BOND
24.050 STAGED DEVELOPMENT
24.060 AREA OF APPLICATION
24.070 EXEMPTIONS FROM PLANNED UNIT DEVELOPMENT REQUIREMENTS
24.080 SUBMITTAL REQUIREMENTS
24.090 APPLICABILITY AND ALLOWED USES
24.100 APPROVAL CRITERIA
24.110 RESIDENTIAL DENSITY CALCULATIONS
24.120 EXAMPLES OF RESIDENTIAL DENSITY CALCULATIONS
24.130 ALLOWABLE DENSITY ON TYPE I AND II LANDS
24.140 TRANSITIONS AND LIMITATIONS ON DENSITY TRANSFER
24.150 DENSITY BONUSES
24.160 DENSITY BONUS CHART
24.170 USABLE OPEN SPACE REQUIRED
24.180 APPLICABILITY OF THE BASE ZONE PROVISIONS
24.190 PUD AMENDMENT TRIGGER

24.010 PURPOSE

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

A. To produce a development which would be as good or better than that resulting from traditional lot-by-lot development.

B. To preserve, to the greatest extent possible, the existing landscape features and amenities through the use of a plan that relates the type and design of the development to a particular site.

C. To correlate comprehensively the provisions of this title and all applicable plans; to encourage developments which will provide a desirable, attractive, and stable environment in harmony with that of the surrounding area.

D. To allow flexibility in design, placement of buildings, use of open spaces, circulation facilities, off-street parking areas, and to best utilize the potentials of sites characterized by special features of geography, topography, size, and shape.

E. To allow a mixture of densities between zoning districts and plan designations when more than one district or designation is included in the development.

F. To develop projects that are compatible with neighboring development in terms of architecture, massing, and scale. Where that cannot be accomplished, appropriate transitions should be provided that are deferential or sympathetic to existing development.

G. To carry out the goals of West Linn's Vision, Imagine West Linn, especially goals relating to housing, commercial, and public facilities.

24.020 ADMINISTRATION AND APPROVAL PROCESS

A. The Planned Unit Development (PUD) zone is an overlay zone and the following are preconditions to filing an application:

1. Attending a pre-application conference with the City Community Development Department pursuant to CDC 99.030;

2. Attending a meeting with the respective City-recognized neighborhood association(s), per CDC 99.038, and presenting their preliminary proposal and receiving comments.

B. The application shall be filed by the owner of record or authorized agent.

C. Action on the application shall be as provided by Chapter 99 CDC, Procedures for Decision-Making: Quasi-Judicial. (Ord. 1474, 2001; Ord. 1590 § 1, 2009; Ord. 1621 § 25, 2014)

24.030 EXPIRATION OR EXTENSION OF APPROVAL

If the final plat has not been recorded with the County within three years from the date of approval of the development plan, the application shall be null and void unless an extension is granted per CDC 99.325. If an extension is granted, the final plat must be recorded with the County before the extension lapses. (Ord. 1408, 1998; Ord. 1589 § 1 (Exh. A), 2010)

24.040 NON-COMPLIANCE – BOND

A. Non-compliance with an approved final plat or development plan shall be a violation of this chapter.

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

24.050 STAGED DEVELOPMENT

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

24.060 AREA OF APPLICATION

Planned unit developments (PUDs) can be utilized in all residential, commercial, and industrial districts on lots or parcels of land that are a minimum of three acres in size. (Ord. 1408, 1998; Ord. 1636 § 20, 2014; Ord. 1647 § 3, 2016)

Commentary:

This section includes residual language that was made redundant when CDC 24.060 was substantially abbreviated under ORD 1647 in 2016. That ordinance removed language specifying thresholds for mandatory PUD review. Eliminating this section would bring the code in line with previous Council action.

~~24.070 EXEMPTIONS FROM PLANNED UNIT DEVELOPMENT REQUIREMENTS~~

~~A planned unit development (PUD) shall not apply in cases where all the following conditions exist:~~

~~A. No density transfer is proposed pursuant to provisions of this chapter.~~

~~B. No development, construction, or grading will take place on Type I and II lands.~~

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

24.080 SUBMITTAL REQUIREMENTS

The submittal requirements ~~shall apply to non-exempt projects as identified in CDC 55.025, and~~ shall include the following:

A. Narrative discussing proposal and applicability of the PUD and addressing approval criteria of this chapter; design review, CDC 55.100; and CDC 92.010(E).

B. Narrative and table showing applicable density calculations.

C. Map showing how the densities will be distributed within the project site.

D. Compliance with submittal requirements of Chapter 55 CDC, Design Review, including full response to approval criteria for Chapter 55 CDC, Design Review, and Chapter 85 CDC, if it is a single-family PUD.

E. Narrative, tables, and showing all density transfers.

F. Tables and maps identifying acreage, location and type of development constraints due to site characteristics such as slope, drainage and geologic hazards. For Type I, II and III lands (refer to definitions in Chapter 02 CDC), the applicant must provide a geologic report, with text, figures and attachments as needed to meet the industry standard of practice, prepared by a certified engineering geologist and/or a geotechnical professional engineer, that includes:

1. Site characteristics, geologic descriptions and a summary of the site investigation conducted;

2. Assessment of engineering geological conditions and factors;

3. Review of the City of West Linn's Natural Hazard Mitigation Plan and applicability to the site; and

4. Conclusions and recommendations focused on geologic constraints for the proposed land use or development activity, limitations and potential risks of development, recommendations for mitigation approaches and additional work needed at future development stages including further testing and monitoring.

G. Other material as required by the Planning Director. (Ord. 1408, 1998; Ord. 1463, 2000; Ord. 1662 § 2, 2017)

24.090 APPLICABILITY AND ALLOWED USES

Commentary:

According to the state's interpretation of ORS 197.307(4), if a housing type is allowed in a zone, there must be a clear and objective path to approval for that use. The City can provide a discretionary path, but it cannot be the only option.

The provisions below allow development of multi-family housing in any zone with a PUD, even if multi-family is not otherwise permitted in the base zone. This has the effect of allowing multi-family housing in several zones only through a discretionary review path, which conflicts with the statute. To resolve this, subsection (A)(1) is proposed to be removed; this would mean only permitted uses are allowed in a zone, even as part of a PUD.

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

A. In addition to the uses allowed outright in the underlying zone the following uses shall be allowed outright where all other applicable standards are met.

~~1. Single-family; detached or attached duplexes, triplexes, quadplexes; townhouses; cottage clusters; and multiple-family housing.~~

1~~2~~. Community buildings.

2~~3~~. Indoor recreation facility, athletic club, fitness center, racquetball court, swimming pool, tennis court, or similar use.

3~~4~~. Outdoor recreation facility, golf course, swimming pool, tennis court, or similar use.

4~~5~~. Recreation vehicle storage area.

5~~6~~. Public safety facilities.

6~~7~~. Major or minor utilities.

7~~8~~. Religious institution, day care center, public or private schools.

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

1. The uses are for the purpose of primarily serving the residents of the proposed development; and

2. There is a need for the type and amount of commercial space. A market analysis may be required.

3. The use will reduce vehicle miles traveled (VMT) between residents and existing neighborhood commercial locations. (Ord. 1463, 2000; Ord. 1736 § 1 (Exh. A), 2022)

24.100 APPROVAL CRITERIA

A. The approval criteria of CDC 55.100, design review, and CDC 92.010(E) shall apply to non-exempted projects per CDC 55.025. All types of single-family detached and single-family attached shall comply with the provisions of Chapter 43 CDC at time of building permit application.

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

1. The proposal shall preserve the existing amenities of the site to the greatest extent possible by relating the type and design of the development to the topography, landscape features, and natural amenities existing on the site and in the vicinity.

2. The proposed PUD shall provide a desirable, attractive, and stable environment in harmony with that of the surrounding area through thorough, well-developed, detailed planning and by comprehensively correlating the provisions of this code and all applicable adopted plans.

3. The placement and design of buildings, use of open spaces, circulation facilities, off-street parking areas, and landscaping shall be designed to best utilize the potentials of the site characterized by special features of geography, topography, size, and shape.

4. The PUD shall be developed so that it is compatible with neighboring development in terms of architecture, massing, and scale. Where that cannot be accomplished, appropriate transitions shall be provided that are deferential or sympathetic to existing development.

C. All densities, density transfers, transitions, density bonuses, and proposed setbacks shall conform to provisions of this chapter as required by CDC 24.080 and 24.110 through 24.170 inclusive. (Ord. 1463, 2000; Ord. 1547, 2007; Ord. 1662 § 3, 2017; Ord. 1736 § 1 (Exh. A), 2022)

24.110 RESIDENTIAL DENSITY CALCULATIONS

A. The PUD allows density to be transferred on residential portions of the site. The following sections explain how the allowed number of dwelling units per acre is calculated. The standards are also intended to ensure that PUDs and adjoining developments are compatible and maintain a sense of neighborhood unity.

B. Net acres for land to be developed with detached single-family dwellings, or multi-family dwellings including duplexes, is computed by subtracting the following from the gross acres:

1. Any land area which is included in a boundary street right-of-way or water course, or planned open space areas if density transfer is not requested.

2. An allocation of 25 percent for public or private facilities (e.g., streets, paths, right-of-way, etc.) or, when a tentative plat or plan has been developed, the total land area allocated for public or private facilities.

3. A lot or parcel of at least the size required by the applicable base zone, if an existing dwelling is to remain on the site.

C. The allowed density or number of dwelling units on the site, subject to the limitations in CDC 24.140 and 24.150, is computed by dividing the number of square feet in the net acres by the minimum number of square feet required for each lot or parcel, by the base zone. (Ord. 1636 § 21, 2014)

24.120 EXAMPLES OF RESIDENTIAL DENSITY CALCULATIONS

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

EXAMPLE

FACTS:

RIGHT-OF-WAY:

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

OPEN SPACE:

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

SINGLE-FAMILY USE:

TYPE I & II LANDS	(104,000 sq. ft.)	
TYPE III & IV LANDS	(197,433 sq. ft.)	6.92 AC
GROSS SITE AREA:		10.49 AC

DENSITY CALCULATIONS:

	GROSS SITE AREA	10.49 AC
(-)	RIGHT-OF-WAY	2.13 AC
	NET SITE AREA	8.36 AC

OPEN SPACE:

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

TYPE I & II LANDS DEVELOPED

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

TYPE III & IV LANDS DEVELOPED

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

TOTAL ALLOWED DENSITY: 31 LOTS

24.130 ALLOWABLE DENSITY ON TYPE I AND II LANDS

A. This table relates to the allowed density of development on Type I and II lands in a PUD. "Development" means when the footprint of a home is placed on Type I or II lands, or when over 50 percent of the lot comprises Type I or II lands. Generally speaking, the greater the constraints, the lower the density; and the lower the constraints, the higher the allowable density.

Please note that density transfers from constrained lands generally allow a 50 to 100 percent transfer. The rationale for only a 50 percent transfer is that these lands have historically been of marginal development value (e.g., wetlands, 52 percent slopes, etc.); so to say those lands should have the same 100 percent development value and potential as less constrained lands would be wrong since they are tougher to build on and they are generally appraised at a lower land value than flatter, more developable sites.

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

B.

Type I or Type II lands	Building Not Allowed	Allowable Density*	
		When Developed	When Transferred
Slopes			
25 – 35%		50%**	75%
35 – 50%		X	75%
More than 50%	X	X	50%
Confirmed Landslide Hazards	X	X	50%
Flood Management			
100-Year Floodplain	X	X	50%
Floodway	X	X	50%
Water Quality Resource Area	X	X	50%
Significant Natural Areas	X	X	50%
Significant Tree/Tree Clusters on Type I and II Lands	X	X	50%
Significant Tree/Tree Clusters on Non-Type I and II Lands	X	X	100%
Planned Public Open Space/Regional Storm Treatment Facility***	X	X	100%

* Development of single-family detached or attached residences, including duplexes, triplexes, quadplexes, townhouses and cottages in cottage clusters, on preexisting lots of record is exempt from this chart; most restrictive density governs in the event of conflict or overlap.

** The "50 percent allowable density when developed" means that if we reduce the number of homes on constrained lands, we reduce the hazard potential which typically increases with higher density and increased site disturbance. Consequently, the density is reduced in half (50 percent). That means that to develop on a predominantly steep lot would require twice the minimum lot size of the underlying zone (e.g., you would need a 20,000-square-foot lot in the R-10 zone). When Type I and II lands are to be developed, the 70 percent rule shall not apply to those areas; it shall only apply to the developable net area as defined in CDC 85.200(J)(7). (Ord. 1408, 1998; Ord. 1736 § 1 (Exh. A), 2022)

24.140 TRANSITIONS AND LIMITATIONS ON DENSITY TRANSFER

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

1. Single-family PUD next to single-family non-PUD does not require a transition (e.g., even though it is R-5 single-family next to R-10, etc.). Also, similar type housing does not need to transition (e.g., duplex next to duplex);

2. Two housing units attached side by side by common wall are considered compatible with detached single-family units; but

3. A multifamily structure, excluding townhouses, is not considered compatible with a single-family detached unit; however

4. Where a proposed residential unit is to be located at least 200 feet from the nearest existing single-family home, the provisions of subsections (B)(1) through (5) of this section shall not apply. The 200-foot transition must be on the subject property. All parking and access shall be a 20-foot minimum setback from abutting property line, unless the approval authority, based upon the City Engineer's recommendation, approves a circulation plan which supports reduced transition to accommodate joint access between adjoining properties.

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

1. An intervening street or driveway that is existing, platted or specifically proposed in the Transportation Master Plan and has a minimum width of 24 feet;

2. Natural topography such as a drainageway or wetland that provides adequate horizontal separation (minimum 40 feet), or a cliff or embankment that provides adequate vertical separation which shall be defined as having the PUD site at least 10 feet below the abutting non-PUD site, plus vegetation for adequate screening. The natural topography may be on an adjoining lot or parcel;

3. Human-made berm (five feet minimum height) with landscaping for adequate screening with a 40-foot minimum width. This transition must be on the subject lot or parcel;

4. The on-site lot or parcel sizes for detached single-family homes adjacent to each property line shall not be smaller than a lot 75 percent of the minimum size of the lot size allowed on the abutting lots or parcels by the applicable zone, or 7,000 square feet, whichever is less; or

5. A horizontal separation of at least 200 feet between on- and off-site structures. The 200-foot transition must be on the subject site. (Ord. 1636 § 22, 2014; Ord. 1736 § 1 (Exh. A), 2022)

24.150 DENSITY BONUSES

A. Although the density may be reduced by CDC 24.130, applicants are encouraged to seek density bonus credits under such categories as "site planning and design excellence." The permitted number of dwelling units may be increased up to 29 percent above those computed under the formula above based on a finding of the Planning Director that the density bonus credits have been satisfied as set forth in the following section and in CDC 24.160:

B. **Site planning and design excellence** allow additional units up to the maximum indicated on the chart when excellence in site planning and building design is demonstrated with respect to neighborhood compatibility, recreation space, security and crime prevention, and livability of on-site environment, as determined through design review. Examples of quality design features which may be used to address the foregoing include, but are not limited to:

1. Maximum retention and integration of natural features into site design in addition to open space areas dedicated to the City.

2. Minimize impervious surfaces. Locate parking facilities and garages at the rear of buildings accessed by alleys. De-emphasis of the automobile is encouraged through placement of parking at side or rear of buildings (reference CDC 55.100(A)(2)).

3. Maximize recreation and open spaces in addition to open space areas dedicated to the City.

4. Superior landscape plan in terms of quantity of materials and quality represented by size of plant/tree, variety of plant/tree, and mix to allow seasonal colors. The landscape plan should incorporate available natural site features (e.g., rock outcroppings, creeks, etc.). The landscape plan should relate to or complement on-site buildings, frame views, and show sensitivity to the micro-climate. Other landscape elements may include rockeries, ornamental pools, and pathways.

5. Architectural design that emphasizes high quality materials, finish, texture, and craftsmanship. Architectural complexity and richness of detail are sought. Contextual design that draws from the predominant architecture of the area is preferred over contrasting design. Only examples of manifestly outstanding contrasting design would be acceptable alternatives to the contextual approach. The design should accommodate the human scale with multiple light windows, appropriately scaled entryways, and porches. Facades should be broken up into multiple elements, both horizontally and vertically. Variations in the building silhouette and depth are also desirable.

6. Integration of various housing types and densities supported by neighborhood commercial uses and basic services.

7. Well-articulated pedestrian and bikeway path system and public transit system, if applicable, that unifies the development site and connects with adjacent development and destinations. Transit facilities are important.

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

1. The amount of density allowed shall be rounded up to the next figure when any partial figure of one-half or greater results from adding the percentage density increase to the base density.

2. The development shall be subject to all applicable development standards of this code. The Planning Director may recommend that the proposed design of the development be modified to ensure that development standards are satisfied. Modifications of design may include, but are not limited to, the following:

a. Reduction in building coverage.

b. Clustering of buildings.

c. Redesign of parking or street layout.

d. Protection of resource areas. (Ord. 1463, 2000)

24.160 DENSITY BONUS CHART

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

Bonus Category		**LOW DENSITY % of increase (R-20, R-15, R-10, R-7, R-40)**	**MEDIUM DENSITY % of increase (R-5 & R-4.5)**	**HIGH DENSITY % of increase (R-2.1, R-3.0)**
1.	Low Cost Housing:	5%	8%	8%
	At least 20 percent of the dwelling units must qualify and be approved for lower income occupants under a federal, State, or local program. (See also senior housing bonus associated with R-4.5, R-3 and R-2.1 zones)			
2.	Common wall units:	5%	n/a	n/a
	At least 20 percent of the dwelling units must be common wall.			
3.	Park Dedication:	5%/1/2 ac.	8%/1/2 ac.	4%/1/2 ac.
	Improved site area is dedicated and accepted by the City, or other public agency, as usable, accessible park land. In Tanner Basin, where System Development Charge (SDC) credits are given for certain dedications of open space, the density bonus may result in reduced SDC compensation.			
4.	Design Excellence:	15%	15%	15%
	The development satisfies the criteria for exceptional design, pursuant to CDC 24.150.			
5.	Natural area/resource dedication of non-constrained lands (Type I and II lands and lands devoted to preservation of significant trees) pursuant to CDC. Includes but is not limited to trails, paths, trailhead construction where appropriate. The City has the authority to refuse such dedication for the purpose of bonus density if the City determines that the dedication would provide no significant benefits to the City.	5%/1/2 ac.	5%/1/2 ac.	5%/1/2 ac.

NOTE: To interpret the above table, 8%, for example, means the development may increase density by that amount. The "5%/1/2 ac." notation means that density can increase by 5% for every 1/2 acre of park land that is dedicated.
(Ord. 1463, 2000)

24.170 USABLE OPEN SPACE REQUIRED

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

A. PUDs that contain multi-family units shall comply with the requirements of CDC 55.100(F).

B. PUDs that contain 10 or more single-family detached, single-family attached, or duplex residential units shall comply with the following usable open space requirements.

1. The plan shall include an open space area with at least 300 square feet of usable area per dwelling unit.

2. The usable open space shall meet the design requirements of CDC 55.100(F)(2).

3. The usable open space shall be owned in common by the residents of the development unless the decision-making authority determines, based upon a request from the applicant and the recommendation of the City Director of Parks and Recreation, that the usable open space should be dedicated to the City for public use. If owned in common by the residents of the development, then a homeowner's association shall be organized prior to occupancy to maintain the usable open space.

4. If the usable open space contains active recreational facilities such as hard surface athletic courts or swimming pools, then the usable open space area shall not be located on the perimeter of the development unless buffered by a transition pursuant to CDC 24.140(B). (Ord. 1463, 2000)

24.180 APPLICABILITY OF THE BASE ZONE PROVISIONS

The provisions of the base zone are applicable as follows:

A. Lot dimensional standards. The minimum lot size and lot depth and lot width standards do not apply except as related to the density computation under this chapter.

B. Lot coverage. The lot coverage provisions of the base zone shall apply for detached single-family units. For single-family attached residential units, residential units, and multiple-family residential units, the following lot coverage provisions shall apply, based upon the underlying base zone. Lot coverage provisions for duplexes, triplexes, quadplexes, townhouses, and cottage clusters are subject to the underlying base zone standards.

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

C. Building height. The building height provisions of the underlying zone shall apply.

D. Structure setback provisions.

1. Setback areas contiguous to the perimeter of the project shall be the same as those required by the base zone unless otherwise provided by the base zone or Chapter 55 CDC.

2. The side yard setback provisions shall not apply except that all detached structures shall maintain a minimum side yard setback of five feet, or meet the Uniform Building Code requirement for fire walls.

3. The side street setback shall be 10 feet.

4. The front yard and rear yard setbacks shall be 15 feet. Porches may encroach forward another five feet. Additional encroachments, such as porches, are allowed per Chapter 38 CDC.

a. Lots or parcels part of a cottage cluster shall have a 10-foot front and rear yard setback.

5. The setback for a garage in the front yard that opens onto the street shall be 20 feet unless the provisions of CDC 41.010 apply. Garages in the rear yard may meet the standards of CDC 34.060.

6. The applicant may propose alternative setbacks. The proposed setbacks must be approved by the decision-making body and established as conditions of approval, or by amendment to conditions of approval. The decision-making body will consider among other things maintenance of privacy, adequate light, defensible space, traffic safety, etc.

E. All other provisions of the base zone shall apply except as modified by this chapter. (Ord. 1442, 1999; Ord. 1736 § 1 (Exh. A), 2022)

24.190 PUD AMENDMENT TRIGGER

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

Chapter 34

ACCESSORY STRUCTURES, ACCESSORY DWELLING UNITS, AND ACCESSORY USES

Commentary:

Amendments are proposed for the accessory dwelling unit standards in Section 34.030. See commentary in that section.

Sections:

34.020 ACCESSORY USES
34.030 ACCESSORY DWELLING UNITS (ADUs)
34.040 SETBACK PROVISIONS FOR NOISE-PRODUCING ACCESSORY USES
34.050 BOAT HOUSES AND DOCKS
34.060 SETBACK PROVISIONS FOR ACCESSORY STRUCTURES (NON-DWELLING)

34.020 ACCESSORY USES

Accessory uses are permitted uses which are customary and incidental to principal uses permitted in the zone and shall be permitted outright, or by prescribed conditions as identified below, and may be either attached or separated from the principal dwelling. Accessory uses on designated historic resources are subject to additional regulations in CDC 25.060(B).

A. A greenhouse may be a maintained accessory to a dwelling provided the activity does not exceed that which requires a license under Chapter 571 of the Oregon Revised Statutes, Nurseries.

B. A television disk or satellite dish larger than three feet in diameter, and any other non-commercial antennas over three feet in height (minor utility), may be a maintained accessory to a dwelling provided it is not located within the front yard or side yard abutting a street, it is mounted on the ground, is screened from view, as practical, with landscaping, and otherwise meets the requirements of CDC 34.060. The satellite dish shall not exceed a maximum height of 18 feet.

Where it can be demonstrated that these restrictions impose unreasonable limitations to the extent that the antenna/satellite dish's reception or transmitting capability is significantly reduced, then roof-mounted (provided it is powder-coated with mesh or perforated construction) or alternate locations for the antenna/satellite dish may be allowed. (Ord. 1350, 1993; Ord. 1463, 2000; Ord. 1614 § 8, 2013)

34.030 ACCESSORY DWELLING UNITS (ADUs)

Commentary:

Proposed amendments to the ADU standards include the following:

- Clarify that ADUs are only permitted with a single-family detached dwelling (excluding duplexes, triplexes, and quadplexes, which are now included in the "single-family" definition).
- Remove the parking requirement in (A)(1), as required by state law. ORS 197.312 requires cities to allow ADUs, subject to only "reasonable local regulations relating to siting and design." The statute then clarifies that "reasonable" regulations do not include requirements for additional off-street parking.
- Remove design standards in (B)(1)-(5), which are discretionary, and which would be overly restrictive if they were converted to C&O standards.

NOTE: The City plans to address broader policy questions and dimensional standards around ADUs as part of a separate project.

A. An accessory dwelling unit (ADU) may be allowed in conjunction with an existing primary single-family detached dwelling (excluding duplexes, triplexes, and quadplexes) by conversion of existing space inside the primary dwelling; by means of an addition to an existing dwelling; by means of an addition as an accessory structure; or by converting or adding to an existing accessory structure, such as a garage, on the same lot with an existing primary dwelling, when the following conditions are met:

~~1. One off-street parking space for the ADU shall be provided in addition to the required parking for the primary dwelling except in those cases where the abutting street has a paved width of 28 feet or more and allows on-street parking.~~

1~~2~~. Public services can serve both dwelling units.

2~~3~~. The number of occupants is limited to no more than one family as defined by the Community Development Code.

3~~4~~. The ADU does not exceed one bedroom and has an area between 250 and 1,000 square feet. If the ADU is located in an accessory structure, then it shall not exceed 30 percent of the gross square footage of the primary dwelling, except that an ADU may be a minimum of 250 square feet in size regardless of the size of the primary dwelling. No more than one ADU is allowed.

4~~5~~. The ADU is in conformance with the setback and lot coverage requirements of the underlying zone.

5~~6~~. The following minimum area standards shall be met:

1 person – 250 square feet

2 persons – 500 square feet

6~~7~~. Existing accessory structures such as large workshops, offices, garages, etc., constructed prior to January 2000, that exceed dimensional standards prescribed above for ADUs may be converted into ADUs in the future so long as the occupied or inhabited area is restricted to less than 1,000 square feet. Existing

structures are not required to meet the design standards of subsections (B)(1) through (9) of this section, but shall conform to them to the greatest extent feasible.

B. Design standards for both attached and detached ADUs are as follows:

~~1. Exterior finish materials. The exterior finish material must be the same as, or visually match in type, size, and placement, the exterior finish material of the primary dwelling.~~

~~2. Roof pitch. The roof pitch must be the same as the predominant roof pitch of the primary dwelling.~~

~~3. Trim. Trim on edges of elements on the addition must be the same in type, size, and location as the trim used on the rest of the primary dwelling.~~

~~4. Windows. The width to height proportions of the Wwindows must match those in the primary dwelling in proportion (relationship of width to height). Second-floor windows on the ADU should be placed and sized so as to achieve a reasonable amount of privacy for the abutting property owner(s).~~

~~5. Eaves. Eaves must project from the building walls the same distance as the eaves on the rest of the primary dwelling.~~

1~~6~~. Setbacks. ~~The~~ A detached ADU shall be at least 10 feet behind the front building line of the primary dwelling so as to maintain the primary status of the single-family home. The only exception allowed shall be for an ADU which is located above a detached garage, in which case, the setback of the ADU may be the same as that of the garage below.

2~~7~~. Height. The maximum height allowed for a detached ADU is 18 feet (as measured using Building Codes methodology). Attached ADUs may be higher than 18 feet, but cannot exceed the height of the existing primary dwelling.

3~~8~~. The main exterior entrance of the ADU shall be located on either the rear or side of the ADU so that the main entrance to the primary dwelling will not be in competition with the entrance to the ADU.

4~~9~~. Exterior stairs serving the ADU shall not face the front property line. (Ord. 1463, 2000)

34.040 SETBACK PROVISIONS FOR NOISE-PRODUCING ACCESSORY USES

Noise-producing accessory uses (for example: heat pumps, swimming pool motors or filter pumps) may be placed within the side, front or rear yard setback, but no closer than three feet to the property line. (Ord. 1675 § 34, 2018)

34.050 BOAT HOUSES AND DOCKS

Only side yard setback requirements apply to boat houses and docks.

34.060 SETBACK PROVISIONS FOR ACCESSORY STRUCTURES (NON-DWELLING)

A. Accessory structures shall comply with all requirements for the principal use except as provided in CDC 34.040 and where specifically modified by this code as follows.

B. A side yard or rear yard requirement may be reduced to three feet for an accessory structure except for a side or rear yard abutting a street, with the exception of alleys platted and dedicated prior to September 30, 1984, as defined in this code; provided, that:

1. The structure is erected more than 60 feet from the front lot line;

2. The structure does not exceed one story or 15 feet in height;

3. The structure does not exceed an area of 500 square feet; and

4. The structure does not violate any existing utility easements.

C. Attached accessory structures. When an accessory structure is attached to the main structure (wall to wall or by any permanent attachment), including via a covered walkway, such accessory structure shall be considered as part of the main structure. (Ord. 1604 § 38, 2011)

Chapter 36

MANUFACTURED HOMES

Sections:

36.010 PURPOSE
36.020 MANUFACTURED HOMES STANDARDS
36.030 MANUFACTURED ~~HOME~~DWELLING PARKS STANDARDS

36.010 PURPOSE

Commentary:

See commentary related to the definitions of “manufactured home” and “manufactured dwelling” in the Section 36.030.

The purpose of the manufactured homes and manufactured dwellings provisions is to establish criteria for the placement of manufactured home units on individual lots and manufactured dwellings in manufactured ~~home~~ dwelling parks within the City of West Linn.

36.020 MANUFACTURED HOMES STANDARDS

Commentary:

The proposed amendments in this section are related to House Bill 4064, which was signed into law in March 2022. HB 4064 prohibits local governments from subjecting manufactured homes to standards that do not apply to site-built single-family dwellings on the same land, except:

- Protections related to statewide land use planning goals; and
- Regulations related to thermal envelope performance standards.

In addition, the design standards for manufactured homes that were once authorized in ORS 197.307(8) have been removed from the statute. Several of the standards in this section apply to manufactured homes, but not to single-family dwellings—including those regulating minimum floor area, roof pitch, eaves, siding, and garages/carports can no longer be applied to manufactured homes.

Manufactured homes placed on individual lots shall be subject to the following requirements in all of the zoning districts in which they are allowed:

A. The unit shall satisfy the requirements for a manufactured home as defined in CDC 02.030.

B. The unit shall be attached to a permanent foundation for which a building permit has been obtained.

~~C. The unit shall have a roof with a minimum pitch of three feet in height for each 12 feet in width with a minimum six-inch projection.~~

~~D. The unit shall have eaves.~~

C~~E~~. The unit, if built subsequent to 1975, shall carry a State insignia indicating compliance with the "Manufactured Housing Construction and Safety Standards Code." Units built prior to 1976 shall carry the State insignia for such units reflecting compliance with applicable State standards.

~~F. The unit shall be multi-sectioned (double-wide or wider) and have a minimum floor area of 1,000 square feet and be designed for occupancy by one family.~~

~~G. The wheels, tongue and traveling lights of the unit shall be removed upon installation of the unit.~~

D~~H~~. Any extension or attachment to the unit which is not part of the original factory manufactured home, including space intended for storage purposes, will require a building permit.

~~I. Exterior siding and roofing shall be similar in color, material and appearance to that used on surrounding dwellings within 300 feet of the lot.~~

~~J. The unit shall not have bare metal siding or roofing.~~

E~~K~~. Off-street parking shall be provided as required by CDC 46.090(A)(6). ~~Garages' or carports' exterior materials must match the residential unit.~~

F~~L~~. The unit shall not be sited on a lot adjacent to any structure listed as an historic landmark or adjacent to an historic district.

G~~M~~. The exterior thermal envelope shall meet performance standards equivalent to those required for single-family dwellings under the State Building Code. (Ord. 1298, 1991; Ord. 1308, 1991; Ord. 1635 § 20, 2014)

36.030 MANUFACTURED ~~HOME~~ DWELLING PARKS STANDARDS

Commentary:

The proposed amendments below are necessary to comply with state statute regarding manufactured dwelling parks (ORS 197.307, 197.485, and ORS 446). The statutes preclude local governments from requiring a minimum site size larger than one acre and require that prefabricated structures be permitted in manufactured dwelling parks (the latter was added via HB 4064).

The statutes also provide specific definitions for "manufactured home" and "manufactured dwelling." Manufactured dwelling is a more inclusive term, which includes residential trailers, mobile homes and manufactured homes. "Manufactured homes" are built to federal manufactured housing construction and safety standards and regulations in effect at the time of construction. "Mobile homes" were constructed between January 1, 1962, and June 15, 1976, and met earlier state standards. Manufactured dwelling parks are required to allow all three types (in addition to prefabricated structures).

The proposed amendments also remove discretion by the City Engineer and instead refer to standards in the West Linn Public Works Design Standards.

A. Manufactured ~~home~~ dwelling parks are allowed under prescribed~~ing~~ conditions in the R-5 and R-4.5 zoning districts.

B. Manufactured ~~home~~dwelling parks are subject to the provisions of Chapter 55 CDC, Design Review and ORS 446.

C. Permitted dwellings. Permitted dwellings in a manufactured dwelling park include manufactured dwellings, as defined in ORS 446.003, and prefabricated structures, as defined in ORS 197.286.

D~~C~~. In addition to the standards of the zoning district in which the project is located and other standards of this code, a manufactured ~~home~~dwelling park proposal shall meet the following:

1. Minimum area. A minimum of ~~two~~one acre~~s~~ shall be required for manufactured ~~home~~dwelling parks. Land area less than ~~two~~ one acre~~s~~ may be added to an approved manufactured ~~home~~dwelling park when such land area is developed as a continuation of the approved manufactured ~~home~~dwelling park. Continuous development shall include integrated vehicle and pedestrian circulation.

2. Density. The density of units in a manufactured ~~home~~dwelling park shall be subject to the density requirements of the zoning district.

3. Space coverage. The maximum lot coverage per manufactured ~~home~~dwelling space shall be 60 percent. The manufactured ~~home~~dwelling space shall be exclusive of space provided for the common use of tenants, such as roadway, structures, guest parking, walkways, and areas for recreation purposes.

4. Separations and setbacks. Building separations and setbacks from the park boundary for manufactured ~~home~~dwellings, accessory structures, and buildings shall conform to the following:

a. A manufactured ~~home~~dwelling shall not be located closer than 15 feet to any other manufactured ~~home~~dwelling, or closer than 10 feet to a building.

b. All structures shall be set back a minimum of 20 feet from all park boundaries. Side and rear lines of a manufactured ~~home~~dwelling space shall be determined with relation to a park street and the same as side and rear lot lines are determined with relation to a public street as provided in a zoning code.

c. Accessory structures shall meet the standards of Chapter 34 CDC.

d. Awnings and carports may be attached to the manufactured ~~home~~dwelling and extend to within two feet of the manufactured ~~home~~dwelling space line. A double carport or garage may extend across the space line to serve two adjacent manufactured ~~home~~dwellings.

e. Manufactured ~~home~~dwellings shall be set back a minimum distance of eight feet from any adjacent sidewalk.

5. Streets.

a. Park streets shall be a minimum of 24 feet in width, curb to curb; provided, that if parking is to be allowed on either side of the street, the minimum width shall be increased by eight feet for each side of the street on which parking is to be allowed. Parking shall be parallel. The point of access to the street shall be at least 32 feet in width.

b. Streets shall be paved with cement or asphaltic concrete, and designed and constructed to adequately support traffic loads and provide adequate drainage, consistent with the West Linn Public Works Design Standards and ORS 446.095~~all as approved by the City Engineer~~.

c. Each manufactured ~~home~~dwelling space within the park shall have direct access to a park street or to a public residential street. The driveway shall be an unobstructed area, not less than 10 feet in width, and shall be constructed of concrete or asphaltic concrete and well-drained, consistent with the West Linn Public Works Design Standards~~ and all as approved by the City Engineer~~.

d. There shall be a minimum of two off-street parking spaces provided for each manufactured ~~home~~dwelling space.

6. Storm drainage. All spaces shall be provided with adequate storm drainage and connected to the storm drainage system. Where a public street is to be dedicated or improved by the applicant, such drainage systems shall be designed and constructed according to the West Linn Public Works Design Standards~~ City code standards and specifications~~.

7. Sewage disposal. All spaces shall be served by the sanitary sewer system of the City. Such sewer systems shall be designed and constructed according to the West Linn Public Works Design Standards~~City code standards and specifications~~.

8. Water supply. All spaces shall be served by the water system of the City. Such water supply systems shall be designed and constructed according to the West Linn Public Works Design Standards~~City code standards and specifications~~.

9. Utilities. All manufactured ~~home~~dwelling lots and spaces shall be provided with storm drainage, sanitary sewer, electricity, telephone, and potable water utility services with easements dedicated where necessary to provide such services. All such utilities shall be located underground. (Ord. 1291, 1990)

Chapter 38

ADDITIONAL YARD AREA REQUIRED; EXCEPTIONS TO YARD REQUIREMENTS; STORAGE IN YARDS; PROJECTIONS INTO YARDS

Commentary:

See commentary in Sections 38.030, .040, and .060.

Sections:

38.020 NO YARD REQUIRED; STRUCTURE NOT ON PROPERTY LINE
38.030 SETBACK FROM STREET CENTERLINE REQUIRED
38.040 EXCEPTIONS TO YARD REQUIREMENTS
38.050 STORAGE IN FRONT YARD
38.060 PROJECTIONS INTO REQUIRED YARDS

38.020 NO YARD REQUIRED; STRUCTURE NOT ON PROPERTY LINE

In zones where a side yard or a rear yard setback is not required, a structure which is not to be built on the property line shall be set back from the property line by at least three feet, except as prescribed in CDC 58.090(C)(1). (Ord. 1675 § 36, 2018)

38.030 SETBACK FROM STREET CENTERLINE REQUIRED

Commentary:

The proposed amendments below are intended to revise unclear language, add a more specific reference to the TSP, and clarify that subsection (A) functions as a purpose statement, not a standard.

A. Purpose. To assure improved light, air, and sight distance and to protect the public health, safety and welfare, a setback in addition to the yard requirements of the zone may be required where the right-of-way is inadequate. A determination shall be made based on the street standards contained in CDC 85.200(A).

B. The minimum yard requirement shall be increased to provide for street widening in the event a yard abuts a street having a right-of-way width less than required by its functional classification, ~~on the City's Comprehensive Plan Map~~ as indicated in the West Linn Transportation System Plan.~~, and~~ I~~i~~n such case, the setback from the street centerline shall be not less than the setback required by the zone plus one-half of the ~~projected road~~ right-of-way width standard established in the "constrained" version of the applicable cross-section in TSP Exhibits 6 through 9~~as required under CDC 85.200(A)~~; however

C. The minimum distance from the wall of any structure to the centerline of an abutting street shall not be less than 25 feet plus the yard required by the zone. This provision shall not apply to existing rights-of-way ~~of~~whose required width is 50 feet or greater ~~in width~~.

38.040 EXCEPTIONS TO YARD REQUIREMENTS

Commentary:

The standards in this section are clear and objective; however, the purpose and applicability is rather confusing. A new purpose statement is proposed to add clarity.

A. Purpose. The following standards allow exceptions to front yard requirements for residential dwellings when abutting lots are developed with dwellings that were built to a previous front yard setback standard.

B~~A~~. If there are dwellings on both abutting lots with front yard depths less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.

C~~B~~. If there are garages on both abutting lots with front yard depths less than the required depth for the zone, the depth of the front yard for the garage for the intervening lot need not exceed the average depth of the front yards of the abutting lots.

D~~C~~. If there is a dwelling on one abutting lot with a front yard of less depth than the required depth for the zone, the front yard for the subject lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth.

E~~D~~. If there is a garage on one abutting lot with a front yard of less depth than the required depth for the zone, the front yard for the garage for the subject lot need not exceed a depth one-half between the depth of the abutting lot and the required front yard depth. (Ord. 1276, 1990)

38.050 STORAGE IN FRONT YARD

Boats, trailers, campers, camper bodies, house trailers, recreation vehicles or commercial vehicles in excess of three-quarter-ton capacity shall not be stored in a required front yard in a residential zone if the location creates an obstruction to the vision of passing motorists which constitutes a potential traffic hazard.

38.060 PROJECTIONS INTO REQUIRED YARDS

Commentary:

The proposed amendments below clarify the meaning of "living space." They also remove an unnecessary statement regarding the Planning Director's authority to determine compliance with this section. The Director has authority to interpret all standards in the CDC; stating so here seems to imply that discretion could be involved, which is not the case.

A. *Repealed by Ord. 1635.*

B. Cornices, eaves, belt courses, sills, canopies, or similar architectural features may extend or project into a required yard not more than 36 inches provided the width of such side yard is not reduced to less than three feet. Projections into the side yard may not include living space such as bay windows or overhanging breakfast nooks, etc.

C. Projections that include living space such as bay windows or overhanging breakfast nooks, etc., may extend into the front or rear yard setbacks, but no more than two feet. The footprint or foundation of the house may not encroach into the front or rear setback area.

D. Fireplace chimneys may project into a required front, side or rear yard not more than three feet, provided the width of such side yard is not reduced to less than three feet.

E. The presence of an easement within a required yard is a limitation to projections. Uncovered open porches, decks, or balconies, not more than 30 inches in height above grade and not covered by a roof or canopy, may extend or project into a required front or rear yard until the projection reaches a utility easement or comes within five feet of the property line, whichever provides a greater distance from the property line. The uncovered deck, porch or balcony may go into side yard setback leaving at least three feet to the property line. Encroachment into a utility easement is not allowed, except as provided below:

1. Uncovered open porches, decks, or balconies may extend into an existing utility easement, provided:

   a. A minimum vertical clearance of 12 feet is maintained between the lowest point of the deck and the ground; and

   b. That no posts are installed within the easement.

2. These provisions do not apply in the Willamette Historic District.

F. Front and rear porches, covered porches, unroofed landings and stairs (over 30 inches in height) may encroach into the front or rear yard setback up to five feet. Homes on corner lots may have a front porch that wraps around to the side street side. The porch on the side street may also encroach five feet into the required street side setback area. Enclosed porches are not permitted to encroach. The roofline of the house may be extended to cover the porch but no enclosed habitable ~~living~~ space shall be allowed inside the front yard setback (e.g.,~~i.e.,~~ dormers). ~~The Planning Director shall determine compliance with this section as provided by CDC 99.060(A)(3).~~ These provisions do not apply in the Willamette Historic District. (Ord. 1291, 1990; Ord. 1308, 1991; Ord. 1401, 1997; Ord. 1635 § 22, 2014)

Chapter 41

BUILDING HEIGHT, STRUCTURES ON STEEP LOTS, EXCEPTIONS

Commentary:

See commentary in Sections 41.005, .010, and .020.

Sections:

41.005 DETERMINING HEIGHT OF BUILDING
41.010 FRONT YARD SETBACK EXCEPTION
41.020 HEIGHT EXCEPTIONS
41.030 PROJECTIONS NOT USED FOR HUMAN HABITATION
41.040 PLACES OF WORSHIP OR GOVERNMENT BUILDINGS

41.005 DETERMINING HEIGHT OF BUILDING

Commentary:

The proposed amendment below clarifies the phrase "projections above roofs such as…" by cross-referencing the standards in Section 41.030.

A. For all zoning districts, building height shall be the vertical distance above a reference datum measured to the highest point of a flat roof or to the deck line of a mansard roof or to the highest gable, ridgeline or peak of a pitched or hipped roof, not including projections not used for human habitation, as provided in CDC 41.030~~above roofs such as cupolas, towers, etc~~. The reference datum shall be selected by either of the following, whichever yields a greater height of building.

1. For relatively flat sites where there is less than a 10-foot difference in grade between the front and rear of the building, the height of the building shall be measured from grade five feet out from the exterior wall at the front of the building; or

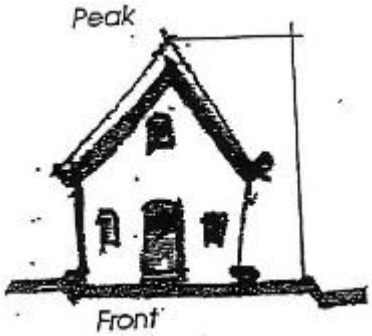
2. For steeper lots where there is more than a 10-foot difference in grade between the front and rear of the building, the height of the building is measured from grade at a point five feet out from the exterior wall on the lowest side (front or rear) of the building. One then measures vertically to the peak or ridgeline of the roof to determine the height.

3. Buildings on cross slopes or side slopes are measured at either the front or rear of the building using methods described in subsections (A)(1) and (2) of this definition only.

Even if the cross slope creates a tall elevation on the side, the method of determining height is not modified.

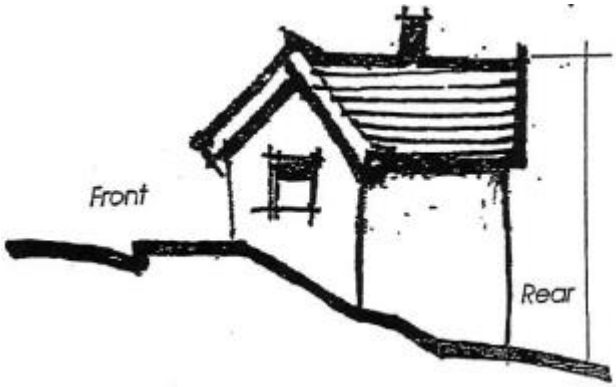
Also see CDC 41.020, Height Exceptions.

Figure 1.



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

Height of building on steep lots where there is more than a 10-foot difference in elevation between the front and rear of the building is measured from grade at a point five feet out from the front or rear exterior wall on the lowest side of the house to the peak of the building.



Height of building with a cross slope is still measured at either the front or rear by methods described in subsection (A)(1) or (2) of this definition.

(Ord. 1604 § 42, 2011)

41.010 FRONT YARD SETBACK EXCEPTION

Commentary:

This section has been slightly reorganized to clarify how the standards are applied. Also, the phrase "where lot width allows" in current subsection (A) is subjective. Since this interpretation would require reviewer discretion, the proposal is to allow exceptions to the standard in subsection (A) only as part of a discretionary review.

If the average slope of a building site is 25 percent or greater, as measured along the planes of the proposed structure, the standards in (A) and (B) shall be met.

A. T~~t~~he minimum front yard setback for the garage shall be three feet. All structures other than the garage shall meet the setback requirement of the underlying zone, or as otherwise specified in this code.

B. When a garage is situated less than 20 feet from the front property line or less than 15 feet from a side property line facing a street, the following siting conditions shall apply:

1~~A~~. ~~Where lot width allows, t~~The garage shall be set parallel to the street (i.e., the garage doors shall be perpendicularly oriented to the street), and at least two off-street parking spaces shall be provided as specified in Chapter 46 CDC (i.e., paved).

2~~B~~. If the lot width prohibits the parallel siting required above, an applicant may request an exception as part of a discretionary review, and the garage may be sited perpendicular to the street (i.e., the garage door or doors facing directly onto the street), provided, in addition to the ~~sheltered~~ garage parking space(s), two off-street parking spaces are provided on site. (Ord. 1226, 1988; Ord. 1276, 1990)

41.020 HEIGHT EXCEPTIONS

Commentary:

The standards in this section may not necessarily be discretionary; however, they are difficult to understand and interpret as currently written. The proposed amendments are intended to clarify the intent of this section and to reorganize the standards to make them more readable.

A. Exceptions to the maximum building height standards provided in the underlying zone shall be permitted on steeply sloped lots under the circumstances specified in subsections (B) and (C) of this section.

B~~A~~. Buildings on sites that front onto the downslope side of a street may exceed the building height standard, provided the following are met:

1. ~~If t~~The highest grade of ~~a~~the building site ~~which fronts on the downslope side of the street~~ is greater than 10 feet above the lowest grade, as measured along the planes of the proposed structure~~,~~;

2. T~~t~~he total building height ~~may~~ does not exceed 45 feet, as measured from the lowest grade at a point five feet downhill from the rear of the building (or 50 feet in the R-15, R-20, and R-40 zones)~~,~~; and

3. ~~provided t~~The building height does not project more than 24 feet above the average grade of the street. ~~In the R-15, R-20, and R-40 zones the 45-foot height may be increased to 50 feet.~~

C~~B~~. Buildings on sites that front onto the upslope side of a street may exceed the building height standard, provided the following are met:

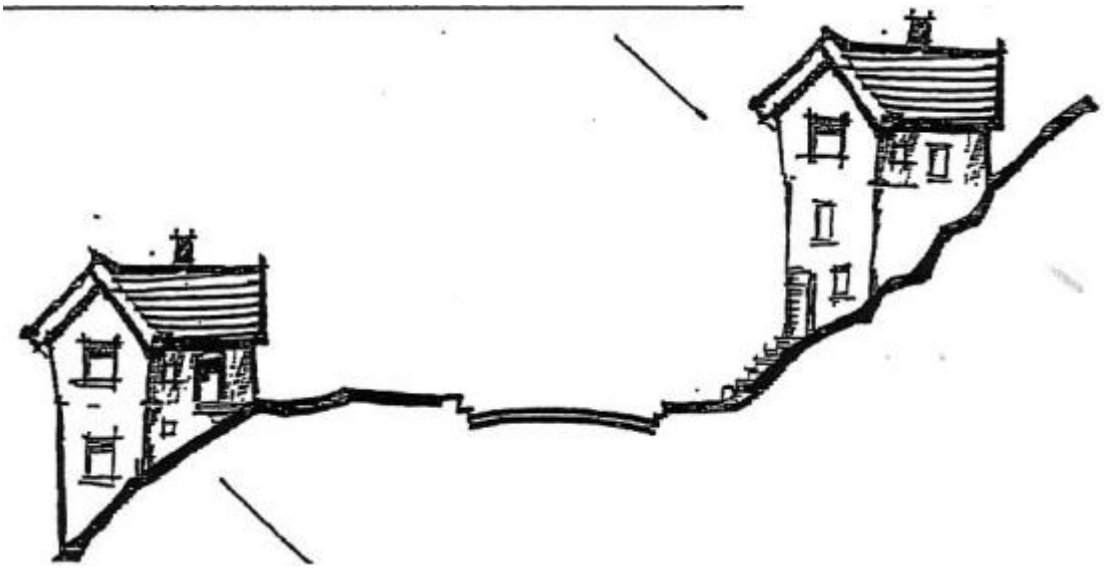
1. ~~If t~~The highest grade of ~~a~~the building site ~~which fronts on the upslope side of the street~~ is greater than 10 feet above the lowest grade, as measured along the planes of the proposed structure~~,~~;

2. T~~t~~he total building height ~~shall~~ does not exceed 45 feet, as measured from a point five feet downhill from the front of the building (or 50 feet in ~~. In~~ the R-15, R-20, and R-40 zones) ~~the 45-foot height may be increased to 50 feet~~.

~~Height of buildings on uphill slopes where there is more than a 10-foot difference between the rear and front elevation is measured from a point five feet downhill from the front of the building to the peak or dominant ridgeline and shall not exceed 45 feet (50 feet in the R-15, R-20 and R-40 zones).~~

Figure 2. Height exceptions

Height of buildings on the upslope side of a street, as described in subsection (C).



Height of buildings on the downslope~~hill slopes~~ side of a street, as described in subsection (B). ~~where there is more than a 10-foot difference between the rear and front elevation is measured from a point five feet downhill from the rear of the building to the peak or dominant ridgeline and shall not exceed 45 feet (50 feet in the R-15, R-20 and R-40 zones). Front house height cannot be more than 24 feet above average street grade.~~ (Ord. 1276, 1990; Ord. 1308, 1991; Ord. 1538, 2006; Ord. 1604 § 43, 2011)

41.030 PROJECTIONS NOT USED FOR HUMAN HABITATION

Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flag poles, and other similar objects not used for human occupancy are not subject to the building height limitations of this code. (Ord. 1604 § 44, 2011)

41.040 PLACES OF WORSHIP OR GOVERNMENT BUILDINGS

The height of a place of worship or governmental building may be built to a maximum height of 50 feet provided:

A. The total floor area of the building does not exceed one and one-half times the area of the site;

B. The yard dimensions in each case are equal to at least two-thirds of the building height of the principal structure; and

C. The approval of this exception is a part of the approval of the conditional use allowed under Chapter 60 CDC. (Ord. 1604 § 45, 2011)

Chapter 43

SINGLE-FAMILY RESIDENTIAL SIDE-YARD TRANSITIONS

Commentary:

See commentary in Section 43.040.

Sections:

43.010 PURPOSE
43.020 APPLICABILITY
43.030 ADMINISTRATION
43.040 GENERAL PROVISIONS
43.050 VARIANCE

43.010 PURPOSE

New homes, both infill and in new subdivisions, particularly new homes around the perimeter of the new subdivision, need to be compatible with adjacent existing homes, especially when the new house is bigger than the existing one. To this end, transitions shall be required to avoid a monolithic and overbearing sidewall. (Ord. 1538, 2006)

43.020 APPLICABILITY

These provisions shall apply to all new ~~home~~single-family attached and detached construction and ~~remodels~~additions that increase the area of a side-yard building elevation by 700 square feet or more, ~~in West Linn~~ except designated historic resources. (Ord. 1538, 2006; Ord. 1614 § 9, 2013)

43.030 ADMINISTRATION

The Planning Director shall apply the standards of this chapter during the administrative review of building permits. No notice is required. In the event that an individual or other party wants to appeal the Planning Director's decision relative to this chapter, they may appeal the decision to the City Council within 14 days of the final decision per CDC 99.140. For the purpose of determining the date of the final decision it shall be the Community Development Department's stamped approval date on the plans. (Ord. 1538, 2006; Ord. 1621 § 25, 2014)

43.040 GENERAL PROVISIONS

Commentary:

Amendments to this section are proposed to clarify applicability of the side yard transition standards, revise unclear/discretionary language, and remove outdated provisions.

New ~~house~~ construction or remodels to the side wall of existing ~~homes~~ dwellings shall transition to ~~homes~~ dwellings on either side, or satisfy one of the exemptions.

A. The side elevation of the ~~house~~ dwelling must be divided into smaller areas or planes to minimize the appearance of bulk when viewed from the neighboring properties or a side street. When the side elevation of the ~~house~~ building (including an attached garage) is more than 700 square feet in area, the elevation must be divided into distinct planes of 700 square feet or less. For the purpose of this standard, a distinct plane is created when there is a recessed or projecting section of the structure, that projects or recedes at least two feet, for a length of at least six feet (see example in Figure 1).

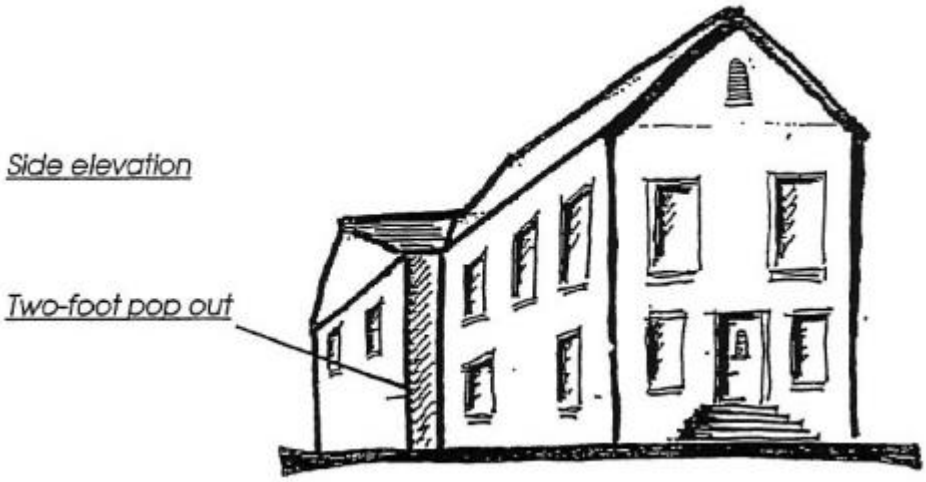


Figure 1

B. Exemptions. The following are exempt from the standards in subsection (A) of this section:

1. ~~Exempt t~~The side of ~~homes~~ dwellings that are built 20 feet or more from the side lot line.

2. ~~Exempt homes~~Dwellings on steep lots where the peak of the roof would be no more than 24 feet above the average street grade.

~~3. Exempt homes on narrow lots 50 feet wide or less shall be allowed a minimum side-to-side width of 30 feet for floors above the first floor. The 30-foot-wide floor shall be able to accommodate a nine-foot floor-to-ceiling measurement on the second floor.~~

3~~4~~. ~~Exempt homes~~Dwellings whose side yards are contiguous to a~~n~~ permanent open space, unbuildable area (those areas constrained by features such as wetlands, drainageways, etc., that would make residential construction impossible), or non-residentially zoned lands ~~are exempt~~. (Except n~~N~~o exemption is allowed if ~~adjacent~~ the side yard is contiguous to a park.)

4~~5~~. ~~Exempt houses~~Dwellings that have the gable end facing the side lot line.

5~~6~~. Replacement in kind of building materials on the sidewall of an existing ~~house~~ dwellings~~shall be exempt~~. For example, the replacement of siding would be exempt.

6~~7~~. ~~The height of the s~~Sidewalls ~~shall~~ that do not exceed 22 feet as measured from grade at the mid-point of the sidewall to the eaves. Exempted s~~S~~idewalls can resume vertically after minimum seven-and-one-half-foot setback (see example in Figure 2).

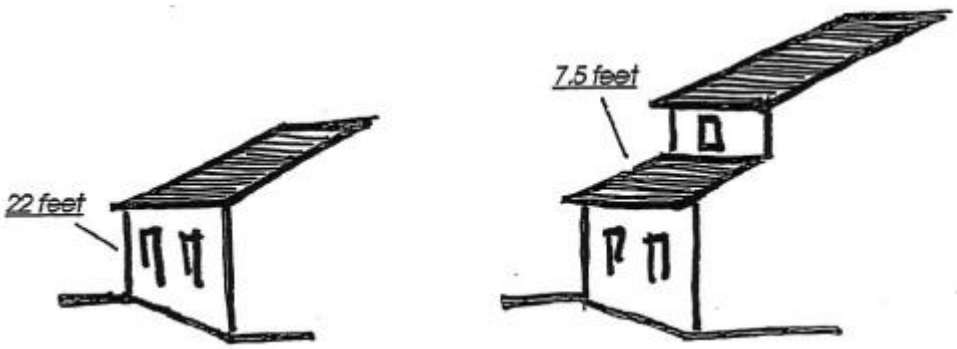
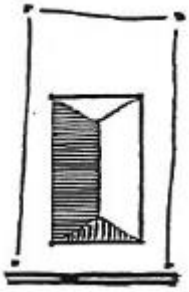
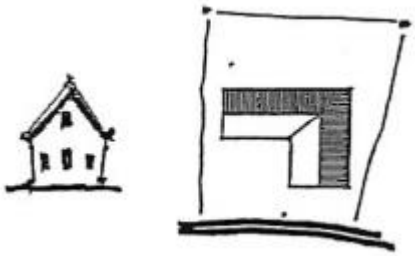
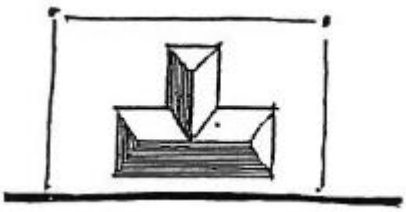


Figure 2

EXEMPTIONS FROM SIDE WALL STANDARD

~~Homes~~ Dwellings on steep lots where the roof would be no more than 24' above average street grade	
~~Homes~~ Dwellings on lots 50' wide or less can have second floor width of at least 30 feet	
Homes next to open space, etc.	

~~Homes~~ Dwellings with the gable end facing the side lot line	
~~Homes~~ Dwellings that are built 20' or more from the side lot line	

(Ord. 1538, 2006; Ord. 1675 § 37, 2018)

43.050 VARIANCE

In cases where the sidewall transitions and/or exemptions do not reasonably accommodate a house design, the applicant may apply for a Class II variance under Chapter 75 CDC. (Ord. 1538, 2006)

Chapter 46

OFF-STREET PARKING, LOADING AND RESERVOIR AREAS

Commentary:

The design standards in Section 46.150 contain discretionary language that needs to be amended as clear and objective when applied to residential development. See Section 46.150 for additional commentary.

Sections:

46.010 PURPOSE
46.020 APPLICABILITY AND GENERAL PROVISIONS
46.030 SUBMITTAL REQUIREMENTS
46.040 APPROVAL STANDARDS
46.050 JOINT USE OF A PARKING AREA
46.060 STORAGE IN PARKING AND LOADING AREAS PROHIBITED
46.070 MAXIMUM DISTANCE ALLOWED BETWEEN PARKING AREA AND USE
46.080 COMPUTATION OF REQUIRED PARKING SPACES AND LOADING AREA
46.090 MINIMUM OFF-STREET PARKING SPACE REQUIREMENTS
46.100 PARKING REQUIREMENTS FOR UNLISTED USES
46.110 RESERVOIR AREAS REQUIRED FOR DRIVE-IN USES
46.120 DRIVEWAYS REQUIRED ON SITE
46.130 OFF-STREET LOADING SPACES
46.140 EXEMPTIONS TO PARKING REQUIREMENTS
46.150 DESIGN AND IMPROVEMENT STANDARDS

46.010 PURPOSE

The purpose of this chapter is to provide standards for the number and arrangement of parking, loading, and reservoir areas. Most of these provisions relate to commercial, office, and industrial uses. Parking lot design has often been criticized for creating large expanses of paved areas, separating the business from the public street. That arrangement makes it less attractive for pedestrians to access these buildings. The challenge is balancing the business community's desire for ample visible parking to attract prospective customers with the community interest of encouraging safe, non-vehicular access, minimizing the visual impact of parking, and creating a more attractive streetscape and urban environment.

Most parking facilities in non-residential developments contain spaces which are infrequently used, available for the few days a year when parking is at a premium. For these spaces, permeable parking surfaces provide a suitable parking surface which can reduce surface runoff and increase water quality, as well as improve the aesthetic appearance of the parking lot. West Linn encourages the use of permeable parking surfaces in appropriate situations. (Ord. 1463, 2000; Ord. 1622 § 25, 2014)

46.020 APPLICABILITY AND GENERAL PROVISIONS

A. At the time a structure is erected or enlarged, or the use of a structure or unit of land is changed within any zone, 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.

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; Ord. 1622 § 25, 2014; Ord. 1636 § 30, 2014)

46.030 SUBMITTAL REQUIREMENTS

For any application requiring design review approval, which includes parking areas, the applicant shall submit, within the design review package, a plan drawn to scale showing all the elements necessary to indicate that the requirements of Chapter 55 CDC are met and it shall include but not be limited to:

A. The delineation of individual parking and loading spaces and their dimensions;

B. The identification of compact parking spaces;

C. The location of the circulation area necessary to serve spaces;

D. The access point(s) to streets, alleys, and properties to be served;

E. The location of curb cuts;

F. The location and dimensions of all landscaping, including the type and size of plant material to be used, as well as any other landscape material incorporated into the overall plan;

G. The proposed grading and drainage plans and the slope (percentage) of parking lot;

H. Specifications as to signs and bumper guards;

I. Identification of disabled parking spaces;

J. Location of pedestrian walkways and crossings; and

K. Location of bicycle racks. (Ord. 1463, 2000)

46.040 APPROVAL STANDARDS

Approval shall be based on the standards set forth in this chapter and Chapter 48 CDC, Access, Egress and Circulation; Chapter 52 CDC, Signs; and Chapter 54 CDC, Landscaping. (Ord. 1463, 2000)

46.050 JOINT USE OF A PARKING AREA

A. 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:

1. The names and addresses of the owners or tenants that are sharing the parking and the uses at those locations;

2. The location and number of parking spaces that are being shared;

3. 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

4. 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 apply to each use separately. (Ord. 1547, 2007; Ord. 1622 § 25, 2014)

46.060 STORAGE IN PARKING AND LOADING AREAS PROHIBITED

Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons and employees only, and the required parking spaces shall not be used for storage of vehicles or materials or for the parking of trucks connected with the business or use with the exception of small (under one-ton) delivery trucks or cars.

46.070 MAXIMUM DISTANCE ALLOWED BETWEEN PARKING AREA AND USE

A. Off-street parking spaces for single-family dwellings shall be located on the same lot with the dwelling.

B. Off-street parking spaces for uses not listed in subsection A of this section shall be located not farther than 200 feet from an entryway to the building or use they are required to serve, measured in a straight line from the building, with the following exceptions:

1. Shared parking areas for commercial uses which require more than 40 parking spaces may provide for the spaces in excess of the required 40 spaces up to a distance of 300 feet from the entryway to the commercial building or use.

2. Industrial and manufacturing uses which require in excess of 40 spaces may locate the required spaces in excess of the 40 spaces up to a distance of 300 feet from the entryway to the building.

3. Employee parking areas for carpools and vanpools shall be located closer to the entryway to the building than general employee parking.

4. Stacked or valet parking is allowed if an attendant is present to move vehicles. If stacked parking is used for required parking spaces, the applicant shall ensure that an attendant will always be present when the lot is in operation. The requirements for minimum or maximum spaces and all parking area development standards continue to apply for stacked parking.

5. All disabled parking shall be placed closest to building entrances than all other parking. Appropriate ADA curb cuts and ramps to go from the parking lot to the ADA-accessible entrance shall be provided unless exempted by ADA code.

6. Parking for cottage clusters may be further than 200 feet, if a pedestrian pathway is provided with the following conditions:

a. Pedestrian walkways from the parking area to the main entrances of cottages is paved and meets standard ADA width and slopes to ensure the most direct path.

b. Pedestrian scaled lighting is provided along the path. (Ord. 1547, 2007; Ord. 1736 § 1 (Exh. A), 2022)

46.080 COMPUTATION OF REQUIRED PARKING SPACES AND LOADING AREA

A. Where several uses occupy a single structure or unit of land, a combination of uses is 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.

B. To calculate building square footage as a basis for determining how many parking spaces are needed, the area measured shall be gross floor area under the roof measured from the faces of the structure, including all habitable floors and excluding only space devoted to covered off-street parking or loading.

C. Where employees are specified, the employees counted are the persons who work on the premises including proprietors, executives, professional people, production, sales, and distribution employees, during the largest shift.

D. Fractional space requirements shall be counted as a whole space.

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

F. When an office or commercial development is proposed which has yet to identify its tenants, the parking requirement shall be based upon the "office" or "general retail" categories, respectively.

G. As permitted uses are replaced with new permitted uses within an existing commercial or business center, modification of the number of parking spaces relative to the new mix of uses is not required unless other modifications of the site which require design review approval pursuant to Chapter 55 CDC are proposed. (Ord. 1463, 2000; Ord. 1622 § 25, 2014; Ord. 1636 § 31, 2014)

46.090 MINIMUM OFF-STREET PARKING SPACE REQUIREMENTS

A. Residential parking space requirements.

1.	Single-family residences (attached or detached).	1 space for each dwelling unit; may or may not be in garage or carport.
2.	Two-family residences and duplexes.	1 space for each dwelling unit; may or may not be in garage or carport.
3.	Triplexes.	1 space for each dwelling unit; may or may not be in garage or carport. For lots or parcels less than 3,000 square feet: 1 space in total; For lots or parcels greater than or equal to 3,000 square feet but less than 5,000 square feet: 2 spaces in total; For lots or parcels greater than or equal to 5,000 square feet: 3 spaces in total. Stacking one car behind the other is permitted only when the parking spaces are allocated to specific dwelling units and the driveway width allows for the interior vehicle to maneuver around the other parked vehicles.
4.	Quadplexes.	1 space for each dwelling unit; may or may not be in garage or carport. For lots or parcels of less than 3,000 square feet: 1 space in total; For lots or parcels greater than or equal to 3,000 square feet but less than 5,000 square feet: 3 spaces in total; For lots or parcels greater than or equal to 5,000 square feet but less than 7,000 square feet: 3 spaces in total; and For lots or parcels greater than or equal to 7,000 square feet: 4 spaces in total. Stacking one car behind the other is permitted only when the parking spaces are allocated to specific dwelling units and the driveway width allows for the interior vehicle to maneuver around the other parked vehicles.
5.	Townhouses.	1 space per townhouse dwelling unit. Stacking one car behind the other is permitted only when the parking spaces are allocated to specific dwelling units and the driveway width allows for the interior vehicle to maneuver

			around the other parked vehicles.
6.	Cottage cluster.		1 space per dwelling unit or cottage in the cluster. Stacking one car behind the other is permitted only when the parking spaces are allocated to specific dwelling units and the driveway width allows for the interior vehicle to maneuver around the other parked vehicles.
7.	Multifamily residences:		
	a.	500 square feet or less.	1 space for each unit.
	b.	1 bedroom apartment.	1.25 spaces for each unit. Stacking one car behind the other is permitted only when the parking spaces are allocated to specific apartments.
	c.	2 bedroom apartments.	1.5 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 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 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.
8.	Residential hotel, rooming and boarding houses.		1 space per 1,000 square feet of gross leasable area.
9.	Correctional institutions.		1 space for each 3 beds or patients, plus 1 space for each 2 employees.
10.	Manufactured/mobile home.		Same as single-family.
11.	Adult foster care, residential care facility, assisted living facility.		1 space for each 3 units plus 1 space for each employee working during the time period with the greatest number of employees on site.
B.	Public and semi-public buildings/uses.		
1.	Hospitals/nursing facilities.		1 space for each 3 beds plus 1 space per 2 employees.
2.	Lodge, social and civic assembly (except senior center and community center).		Spaces to meet the combination of uses, CDC 46.080(A).
3.	Library.		1 space per 400 square feet of reading area, plus 1 space per 2 employees.

4.	Religious institutions and community meeting rooms.		1 space for every 4 fixed seats or every 8 feet of bench length or every 28 square feet where no permanent seats or benches are maintained (in main auditorium, sanctuary, or place of worship).
5.	Museum, art gallery.		1 space for each 500 square feet of floor area, plus 1 space for each 2 employees.
6.	Primary school, middle school, or equivalent private or parochial school.		1 space for every employee, plus 1 space for each 1,000 square feet of floor area.
7.	Senior high, college, or commercial trade school, or equivalent private or parochial school.		0.2 spaces per staff and student.
8.	Day care, kindergarten, or pre-school facilities.		1 space per employee, plus one space for every 300 square feet of floor area.
9.	Youth center or community center.		1 space per 200 square feet of covered floor area and drop-off facilities where required by CDC 46.120.
10.	Passive parks, open space areas.		1 space per 5 acres to 1 space per acre unless the open space area is abutting a street with no intervening homes or land uses, and has at least 300 lineal feet of street frontage where on-street parking is allowed.
11.	Active parks, playgrounds.		2 to 5 spaces for each acre of active use area other than athletic fields.
12.	Athletic field (baseball, soccer, etc.).		40 spaces per athletic field.
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.		1 space per 150 square feet and drop-off facility per CDC 46.120.
15.	Trailhead.		Four spaces (includes one handicapped space).
C.	Commercial.		
1.	Restaurants: Eating and drinking establishments.		
	a.	Cafes, diners, taverns, bars, lounges, full-service and fast food restaurants.	One space for every 100 square feet of gross floor area. Restaurants with drive-through window and reservoir areas may reduce their parking requirement by 5 spaces.
	b.	Take out facilities (i.e., delicatessen, coffee and pastry, pizza, Chinese food, etc.) with no more than 2 tables and 8 seats, or 12 feet of stand-up counter space, or combination thereof, so that not more than 8 persons could be accommodated at any one time.	One space for every 200 square feet of gross floor area. Take-out facilities with drive-through window and reservoir areas may reduce their parking requirement by 5 spaces.

2.	General retail store, except as provided below.	One space for every 240 sq. ft. of gross floor area.
3.	Retail-bulky (i.e., automobiles, furniture, automotive parts, appliances such as stoves, refrigerators, etc.).	One space for every 300 sq. ft. of gross floor area.
4.	Service and repair shops.	One space for every 500 sq. ft. of gross floor area.
5.	Professional offices, banks and savings and loans, and government offices.	One space for every 370 sq. ft. of gross area.
6.	Medical/dental clinics/day surgery.	One space for every 250 sq. ft. of gross floor area.
7.	Hotel, motel, tourist court, or bed and breakfast.	One space for each guest room (plus parking for convention center, as appropriate).
8.	Convention, trade, or banquet center.	One space per 3 persons of the maximum capacity of the convention center.
9.	Laundromat.	One space per 2 washing machines.
10.	Tanning salon.	One space per tanning booth/bed, plus 1 per employee.

D. Commercial recreation.

1.	Auditorium, stadium, gymnasium.	One space for each 4 seats, or 8 feet of bench length, or 1 space for each 40 square feet of floor area.
2.	Bowling alley.	Five spaces for each alley, plus 1 space for each 2 employees.
3.	Pool hall or billiard hall.	One space per table, plus 1 space for each 2 employees.
4.	Dance hall or skating rink.	One space for each 50 sq. ft. of gross floor area, plus space for each 2 employees.
5.	Amusement park.	One space for each 1,000 sq. ft. of gross area, plus 1 space for each 2 employees.
6.	Go-kart track.	One space per kart, plus one space per employee.
7.	Country club and golf course.	Six spaces per golf hole, and 1 space per employee on largest shift.
8.	Executive or 9-hole golf course.	Two spaces per golf hole, and space per employee on largest shift.
9.	Theater or movie house.	One space per 4 seats, or 8 feet of bench length.
10.	Racetrack or stadium.	One space per 6 seats, or 12 feet of bench length.
11.	Shooting gallery.	One space per 500 square feet of floor area, plus 1 space per 2 employees.
12.	Swimming pool.	One space per 100 square feet of floor area, plus 1 space per 2 employees.
13.	Tennis/racquetball courts.	One space per court.
14.	Video arcade.	One space per 240 square feet.

15.	Miniature golf course.	Two spaces per golf hole, plus 1 space per employee at largest shift.
16.	Marina boat dock.	1.5 spaces per boat slip, plus 1 per each employee.
17.	Health club.	One space per 230 square feet of gross floor area.

E. Industrial.

1.	Manufacturing use; may include assembly and distribution.	One space per employee. (Multi-shift businesses only need to provide for peak shift number of employees on site at one time.)
2.	Storage or wholesale use including personal storage facilities.	One space per employee plus one space/700 sq. ft. of patron serving area.

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

G. Parking reductions. An applicant may reduce parking up to 10 percent for development sites within one-quarter mile of a transit corridor or within a mixed-use commercial area, and up to 10 percent for commercial development sites adjacent to multifamily residential sites with the potential to accommodate more than 20 dwelling units.

H. For office, industrial, and public uses where there are more than 20 parking spaces for employees on the site, at least 10 percent of the required employee parking spaces shall be reserved for carpool use before 9:00 a.m. on weekdays. The spaces will be the closest to the building entrance, except for any disabled parking and those signed for exclusive customer use. The carpool/vanpool spaces shall be clearly marked “Reserved – Carpool/Vanpool Before 9:00 a.m.”

I. Existing developments along transit streets or near transit stops may redevelop up to 10 percent of the existing parking spaces to provide transit-oriented facilities, including bus pullouts, bus stops and shelters, park and ride stations, and other similar facilities.

J. Development in water resource areas may reduce the required number of parking spaces by up to 25 percent. Adjacent improved street frontage with curb and sidewalk may also be counted towards the parking requirement at a rate of one parking space per 20 lineal feet of street frontage adjacent to the property. (Ord. 1291, 1990; Ord. 1391, 1996; Ord. 1408, 1998; Ord. 1425, 1998; Ord. 1463, 2000; Ord. 1499, 2003; Ord. 1547, 2007; Ord. 1622 § 25, 2014; Ord. 1623 § 4, 2014; Ord. 1650 § 1 (Exh. A), 2016; Ord. 1675 § 38, 2018; Ord. 1736 § 1 (Exh. A), 2022)

46.100 PARKING REQUIREMENTS FOR UNLISTED USES

A. Upon application and payment of fees, the decision-making authority, as provided by CDC 99.060(B), may rule that a use not specifically listed in CDC 46.090 is a use similar to a listed use and that the same parking standards shall apply. The ruling on parking requirements shall be based on the requirements of Chapter 99 CDC and findings that:

1. The use is similar to and of the same general type as a listed use;

2. The use has similar intensity, density and off-site impacts as the listed use; and

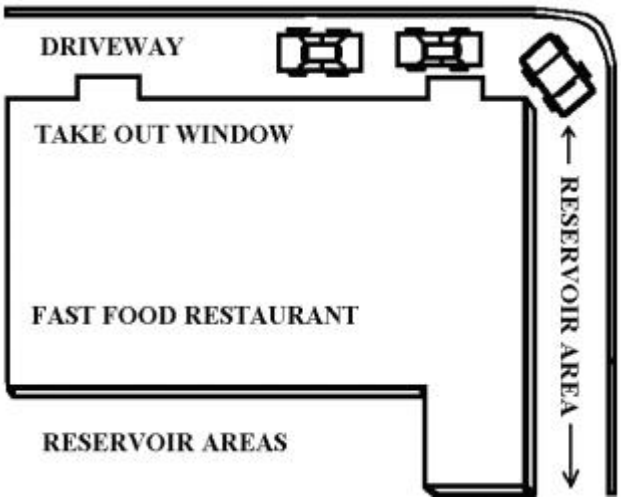
3. The use has similar impacts on the community facilities as the listed use.

B. This section does not authorize the inclusion of a use in a zone where it is not listed, or a use which is specifically listed in another zone or which is of the same general type, and is similar to a use specifically listed in another zone.

46.110 RESERVOIR AREAS REQUIRED FOR DRIVE-IN USES

All uses providing drive-in service as defined by this code shall provide, on the same site, a reservoir space a minimum of 15 feet long for each car, as follows:

Use	Reservoir Requirement
Drive-in banks.	3 spaces/service terminal.
Drive-in restaurants.	10 spaces/service window (measured from the last service window).
Drive-in theaters.	10 percent of the theater capacity.
Gasoline service stations.	2 spaces (25 feet long each) on each side of fueling island to include 2 spaces at each end of the island.
Mechanical car washes.	3 spaces/washing unit.
Parking facilities – free flow (no stop required) entry.	1 space/entry driveway.
Automated ticket dispense entry.	2 spaces/entry driveway.
Attendant ticket dispensing.	5 spaces/entry driveway.



(Ord. 1401, 1997)

46.120 DRIVEWAYS REQUIRED ON SITE

Any school or other meeting place which is designed to accommodate more than 25 people at one time shall provide a 15-foot-wide driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers. Depending on functional requirements, the width may be increased with Planning Director approval.

46.130 OFF-STREET LOADING SPACES

Buildings or structures to be built or substantially altered, which receive and distribute material or merchandise by truck, shall provide and maintain off-street loading and maneuvering space. The dimensional standard for loading spaces is a minimum of 14 feet wide by 20 feet long or proportionate to accommodate the size of delivery trucks that typically serve the proposed use as follows:

	Gross Floor Area	
Land Use	**At Which First Berth Is Required**	**At Which Second Berth Is Required**
Industrial:		
Manufacturing	5,000 sq. ft.	40,000 sq. ft.
Warehouse	5,000	40,000
Storage	10,000	100,000
Commercial:		
Wholesale	10,000	40,000
Retail	10,000	20,000
Service establishments	10,000	40,000
Comm. recreational (incl. bowling alley)	10,000	100,000
Restaurants	5,000	25,000
Laundry	10,000	25,000
Office building	10,000	100,000
Hotel	10,000	100,000
Institutional:		
Schools	10,000	100,000
Hospitals	10,000	100,000
Other care facilities	10,000	100,000
Public buildings:		
Terminals	5,000	40,000
Auditoriums	10,000	100,000
Arenas	10,000	100,000
Funeral homes	10,000	100,000

46.140 EXEMPTIONS TO PARKING REQUIREMENTS

To facilitate the design requirements of Chapter 58 CDC, properties in the Willamette Falls Drive Commercial Design District, located between 10th and 16th Streets, shall be exempt from the minimum parking and off-street loading requirements as identified in this chapter. Any off-street parking or loading spaces voluntarily provided shall be designed and installed per the dimensional standards of this code. (Ord. 1463, 2000; Ord. 1638 § 3, 2015; Ord. 1675 § 39, 2018)

46.150 DESIGN AND IMPROVEMENT STANDARDS

Commentary:

The proposed amendments to subsection (A), below, are intended to do the following:

- Clarify the meaning of "main driveway" (subsection 1).
- Exempt residential development from highly discretionary provisions (subsections 4, 9, and 21).
- Reference the Public Works Design Standards (subsection 12).
- Replace subjective criteria regarding lighting design with objective and specific standards (subsection 13).
- Clarify which parking areas are subject to grade limitations (subsection 17).
- Replace unclear/subjective language regarding pedestrian walkways through parking lots (subsection 20).

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 multifamily parking stalls back onto a ~~main~~ driveway, as opposed to a drive aisle within a parking lot, the stalls shall be nine feet by 20 feet. Parking for development in water resource areas may have 100 percent compact spaces.

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. *Repealed by Ord. 1622.*

4. Service drives for non-residential development 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, except where stacked parking is permitted pursuant to CDC 46.070(B)(4) or CDC 46.090(A).

6. Except for single-family attached and detached residences, any area intended to be used to meet the off-street parking requirements as contained in this chapter shall have all parking spaces clearly marked using a permanent paint. All interior drives and access aisles shall be clearly marked and signed to show direction of flow and maintain vehicular and pedestrian safety. Permeable parking surface spaces may have an alternative delineation for parking spaces.

7. Except for residential parking, and parking for public parks and trailheads, at least 50 percent of all areas used for the parking and/or storage and/or maneuvering of any vehicle, boat and/or trailer shall be improved with asphalt or concrete surfaces according to the same standards required for the construction and acceptance of City streets. The remainder of the areas used for parking may use a permeable paving surface designed to reduce surface runoff. Parking for public parks or trailheads may use a permeable paving surface designed to

reduce surface runoff for all parking areas. Where a parking lot contains both paved and unpaved areas, the paved areas shall be located closest to the use which they serve.

8. Off-street parking spaces for single-family attached and detached residences shall be improved with a paved ~~an asphalt or concrete~~ surface~~, or a permeable parking surface designed to reduce surface runoff, to specifications as approved by the Building Official~~. Other parking facilities for single-family homes that are to accommodate additional vehicles, boats, recreational vehicles, and trailers, etc., need not be paved. All parking for multifamily residential development shall be paved with concrete or asphalt. Driveways shall measure at least 20 feet from the back of sidewalk to garage or the end of the parking pad to accommodate cars and sport utility vehicles without the vehicles blocking the public sidewalk.

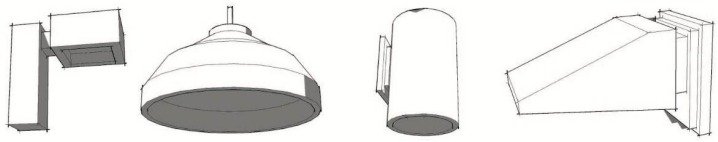
9. Access drives from the street to off-street parking or loading areas for non-residential development shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site. The number of access drives shall be limited to the minimum that will allow the property to accommodate and service the anticipated traffic. Access drives for all development shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives.

10. Access drives shall have a minimum vision clearance as provided in Chapter 42 CDC, Clear Vision Areas.

11. Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least 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.

12. Off-street parking and loading areas shall be drained in accordance with ~~plans and specifications approved by the City Engineer~~ City of West Linn Public Works Design Standards. Storm drainage at commercial sites may also have to be collected to treat oils and other residue.

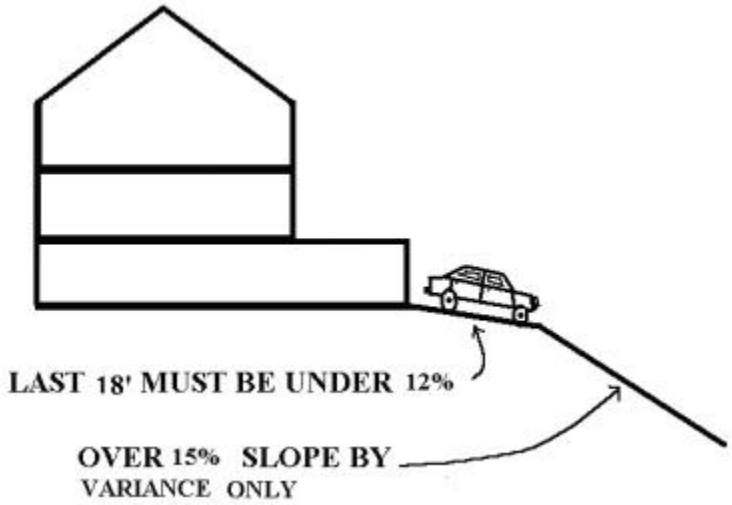
13. Artificial lighting on all off-street parking facilities shall be concealed or shielded with an Illumination Engineering Society of North America (IESNA) full cut-off style fixture with an angle not exceeding 90 degrees to minimize the potential for glare and unnecessary diffusion on adjacent property~~designed to deflect all light downward away from surrounding residences~~ and so as not to create a hazard to the public use of any road or street. Examples of shielded light fixtures are shown below.



Examples of shielded light fixtures

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

15. The maximum driveway grade for single-family housing shall be 15 percent. The 15 percent shall be measured along the centerline of the driveway only. Grades elsewhere along the driveway shall not apply. Variations require approval of a Class II variance by the Planning Commission pursuant to Chapter 75 CDC. Regardless, the last 18 feet in front of the garage must maintain a maximum grade of 12 percent as measured along the centerline of the driveway only. Grades elsewhere along the driveway shall not apply.



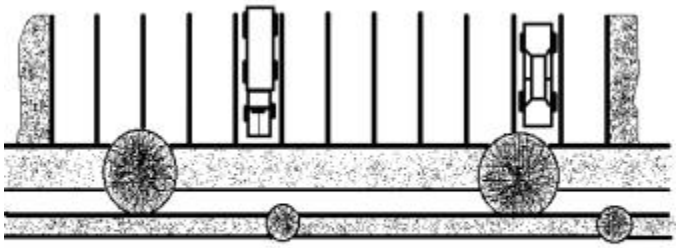
16. Visitor or guest parking must be identified by painted "GUEST" or "VISITOR."

17. ~~The p~~Parking ~~area~~spaces shall have less than a five percent grade. No drainage across adjacent sidewalks or walkways is allowed.

18. Commercial, office, industrial, and public parking lots may not occupy more than 50 percent of the main lot frontage of a development site. The remaining frontage shall comprise buildings or landscaping. If over 50 percent of the lineal frontage comprises parking lot, the landscape strip between the right-of-way and parking lot shall be increased to 15 feet wide and shall include terrain variations (e.g., one-foot-high berm) plus landscaping. The defensible space of the parking lot should not be compromised.

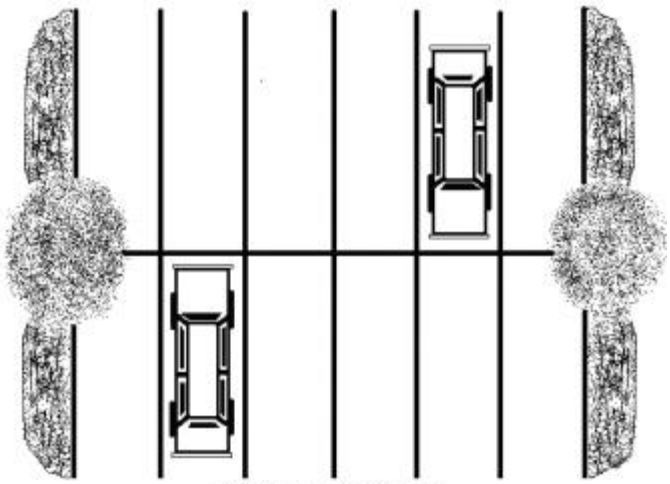
19. Areas of the parking lot improved with asphalt or concrete surfaces shall be designed into areas of 12 or less spaces through the use of defined landscaped area. Groups of 12 or less spaces are defined as:

a. Twelve spaces in a row, provided there are no abutting parking spaces, as in the case when the spaces are abutting the perimeter of the lot; or



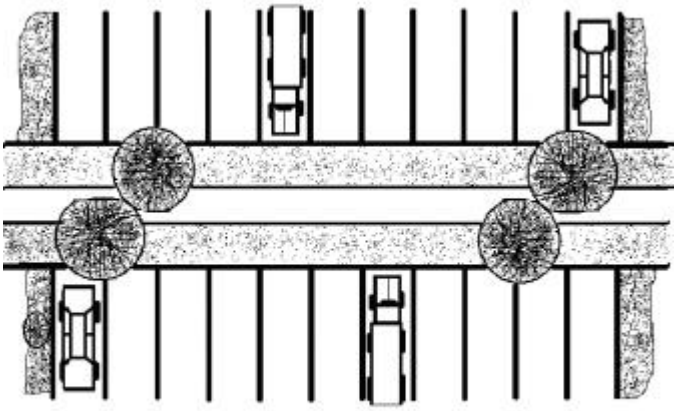
12 SPACES IN A ROW

b. Twelve spaces in a group with six spaces abutting together; or



6 SPACES X 2 = 12

c. Two groups of 12 spaces abutting each other, but separated by a 15-foot-wide landscape area including a six-foot-wide walkway.



12 SPACES X2 WITH LANDSCAPING

d. Parking areas improved with a permeable parking surface may be designed using the configurations shown in subsections (A)(19)(a), (b) and (c) of this section except that groups of up to 18 spaces are allowed.

e. The requirements of this chapter relating to total parking lot landscaping, landscaping buffers, perimeter landscaping, and landscaping the parking lot islands and interior may be waived or reduced pursuant to CDC 32.110(F) in a WRA application without a variance being required.

20. Pedestrian Connections through Parking Areas.

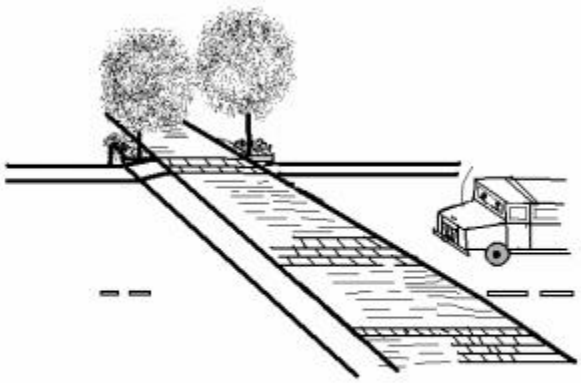
a. Pedestrian walkways shall be provided in parking areas having 20 or more spaces.

b. Walkways or sidewalks shall be constructed through parking lots where such parking lots lie between major buildings/activity areas (an example in multi-family housing: between recreation center, swimming pool, manager's office, park or open space areas, parking lots, etc.) within a development,

~~between adjacent developments and the new development, as feasible, and between major buildings/activity areas within the development~~ and adjacent streets ~~and all~~or adjacent transit stops.

c. ~~Internal parking lot circulation and design should maintain ease of access for pedestrians from streets and transit stops.~~ Walkways through parking lots shall be constructed using a material that visually contrasts with the parking lot and driveway surface and that may have a contrasting surface texture (surface texture shall not interfere with safe use of wheelchairs, baby carriages, shopping carts, etc.). Walkways shall be ~~further identifiable to pedestrians and motorists by~~ physically separated from adjacent vehicle parking and parallel vehicle traffic through the use of grade separation, walls, curbs, ~~surface texture (surface texture shall not interfere with safe use of wheelchairs, baby carriages, shopping carts, etc.)~~, and/or landscaping.

d. Walkways shall be a minimum of six feet wide. ~~The arrangement and layout of the paths shall depend on functional requirements.~~



RAISED SIDEWALK/TEXTURED SURFACE
AUTOMOBILE BECOMES SUBSERVIENT
TO THE PEDESTRIAN

21. ~~The p~~Parking and circulation patterns shall be~~are~~ easily comprehended and defined. The patterns shall be clear to minimize traffic hazards and congestion and to facilitate emergency vehicles. Residential developments which are exempt from Design Review or subject to only clear and objective Design Review are not required to comply with this design standard.

22. ~~The p~~Parking spaces for residential development subject to clear and objective review shall be provided on the same lot. Parking spaces for non-residential development or for residential development subject to discretionary review shall be close to the related use.

23. Permeable parking spaces shall be designed and built to the~~City~~ standards of the current edition of the City of Portland Stormwater Management Manual, as amended and adopted by the City of West Linn.

B. Accessible parking standards for persons with disabilities. If any parking is provided for the public or visitors, or both, the needs of the people with disabilities shall be based upon the following standards or current applicable federal standards, whichever are more stringent:

1. Minimum number of accessible parking space requirements (see following table):

MINIMUM REQUIRED NUMBER OF TOTAL PARKING SPACES	TOTAL NUMBER OF ACCESSIBLE SPACES	NUMBER OF VAN-ACCESSIBLE SPACES REQUIRED, OF TOTAL	SPACES SIGNED "WHEELCHAIR USE ONLY"
1 – 25	1	1	–
26 – 50	2	1	–
51 – 75	3	1	–
76 – 100	4	1	–
101 – 150	5	–	1
151 – 200	6	–	1
201 – 300	7	–	2
301 – 400	8	–	2
401 –500	9	–	2
501 – 999	2 percent of total spaces	–	1 in every 6 accessible spaces or portion thereof
Over 1,000	20 spaces plus 1 for every 100 spaces, or fraction thereof, over 1,000	–	1 in every 6 spaces or portion thereof

2. Location of parking spaces. Parking spaces for the individual with a disability that serve a particular building shall be located on the shortest possible accessible circulation route to an accessible entrance to a building. In separate parking structures or lots that do not serve a particular building, parking spaces for the persons with disabilities shall be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility.

3. Accessible parking space and aisle shall meet ADA vertical and horizontal slope standards.

4. Where any differences exist between this section and current federal standards, those federal standards shall prevail over this code section.

5. One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide.

6. Van-accessible parking spaces shall have an additional sign marked "Van Accessible" mounted below the accessible parking sign. A van-accessible parking space reserved for wheelchair users shall have a sign that includes the words "Wheelchair Use Only." Van-accessible parking shall have an adjacent eight-foot-wide aisle. All other accessible stalls shall have a six-foot-wide aisle. Two vehicles may share the same aisle if it is between them. The vertical clearance of the van space shall be 96 inches.

C. Landscaping in parking areas. Reference Chapter 54 CDC, Landscaping.

Commentary:

The proposed amendments to subsection (D), below, are intended to do the following:

- Make more specific references to adopted plan documents (subsection 1).
- Replace unclear/subjective terms such as "well lit" and "properly signed" with objective standards for bicycle parking areas (subsection 2).

D. Bicycle facilities and parking.

1. Provisions shall be made for pedestrian and bicycle ways if such facilities are identified on pages 24-26 of the 2016 West Linn Transportation System Plan or in the 2013 West Linn Trails Plan~~shown on an adopted plan~~.

2. Bicycle parking improvements and location.

a. Bicycle parking facilities shall either be lockable enclosures in which the bicycle is stored, or secure stationary racks which accommodate bicyclist's locks securing the frame and both wheels.

b. The nearest bicycle parking space shall be no more than 50 feet from the entrance to the building and shall be visible from the building entrance~~, well-lit, observable, and properly signed~~.

c. Required parking shall be signed and reserved for bicycle parking only. If a bicycle parking area is not visible from the main building entrance, a directional sign shall be posted at the building entrance indicating the location of the bicycle parking area.

d. Required bicycle parking shall be lighted to a minimum 3 foot-candles to allow secure use at night.

3. Bicycle parking must be provided in the following amounts:

LAND USE CATEGORY	MINIMUM REQUIRED BICYCLE PARKING SPACES	MINIMUM COVERED AMOUNT
Residential		
Multi-family Residential	1 space per unit	50%
Institutional		
Schools – Elementary	2 spaces per classroom	50%
Schools – Jr. High or Middle Schools	4 spaces per classroom	50%
Schools – Sr. High	2 spaces per classroom	50%
College	1 space per 4 students	50%
Transit Centers/Park & Ride Lots	5% of auto spaces, or 100% of demand, depending on location/accessibility to bicyclists	100%
Religious Institutions	1 space per 40-seat capacity	25%
Hospitals	1 space per 5 beds	50%
Doctor, Dentist Offices	2, or 0.5 spaces per 1,000 gross sq. ft., whichever is greater	25%
Libraries, Museums, Government Offices, etc.	2, or 1.5 spaces per 1,000 gross sq. ft., whichever is greater	25%
Commercial		
Retail Sales	0.33 spaces per 1,000 gross sq. ft.	50%
Auto-oriented Services (including 7-11s)	2, or 0.33 spaces per 1,000 gross sq. ft., whichever is greater	10%
Groceries/Supermarkets	0.33 spaces per 1,000 gross sq. ft./bldg.	10%
Office	2, or 0.5 spaces per 1,000 gross sq. ft., whichever is greater	10%
Quality Restaurant	1 space per 1,000 gross sq. ft.	25%

LAND USE CATEGORY	MINIMUM REQUIRED BICYCLE PARKING SPACES	MINIMUM COVERED AMOUNT
Drive-in Restaurant	2 spaces per 1,000 gross sq. ft.	25%
Shopping Center (by size)	0.33 spaces per 1,000 gross sq. ft./bldg.	50%
Financial Institutions	2, or 0.33 spaces per 1,000 gross sq. ft.	25%
Theaters, Auditoriums, etc.	1 space per 30 seats	25%
Industrial		
Industrial Park	2, or 0.5 spaces per 1,000 gross sq. ft.	50%
Warehouse	2, or 0.1 spaces per 1,000 gross sq. ft.	50%
Manufacturing, etc.	2, or 0.15 spaces per 1,000 gross sq. ft.	50%

E. Office or industrial developments shall be allowed a 10 percent reduction in the number of required parking spaces when the property owner agrees to a demand management program that includes three or more of the following measures:

1. Designate a transportation coordinator responsible for promoting public transit and ride-sharing among employees.

2. Participate in region-wide ride matching program at the site.

3. Provide free transit passes to employees.

4. Provide showers and lockers for employees who commute by bicycle.

5. Charge employees for monthly parking and provide a transportation allowance to employees equal to the parking charge.

6. Install office technology, floorplans, and tenant regulations which are permanent, which effectively arrange for at least 10 percent of the employees to telecommute, thereby reducing employee automobile traffic by 10 percent.

The required demand management measures shall be included as conditions of approval for the proposed project. The property owner or manager shall file an annual affidavit with the City of West Linn stating that ongoing demand management measures required as conditions of approval have not been discontinued.

F. (See Figures 1 and 2 below.)

Figure 1. MINIMUM STANDARDS FOR PARKING LOT LAYOUT

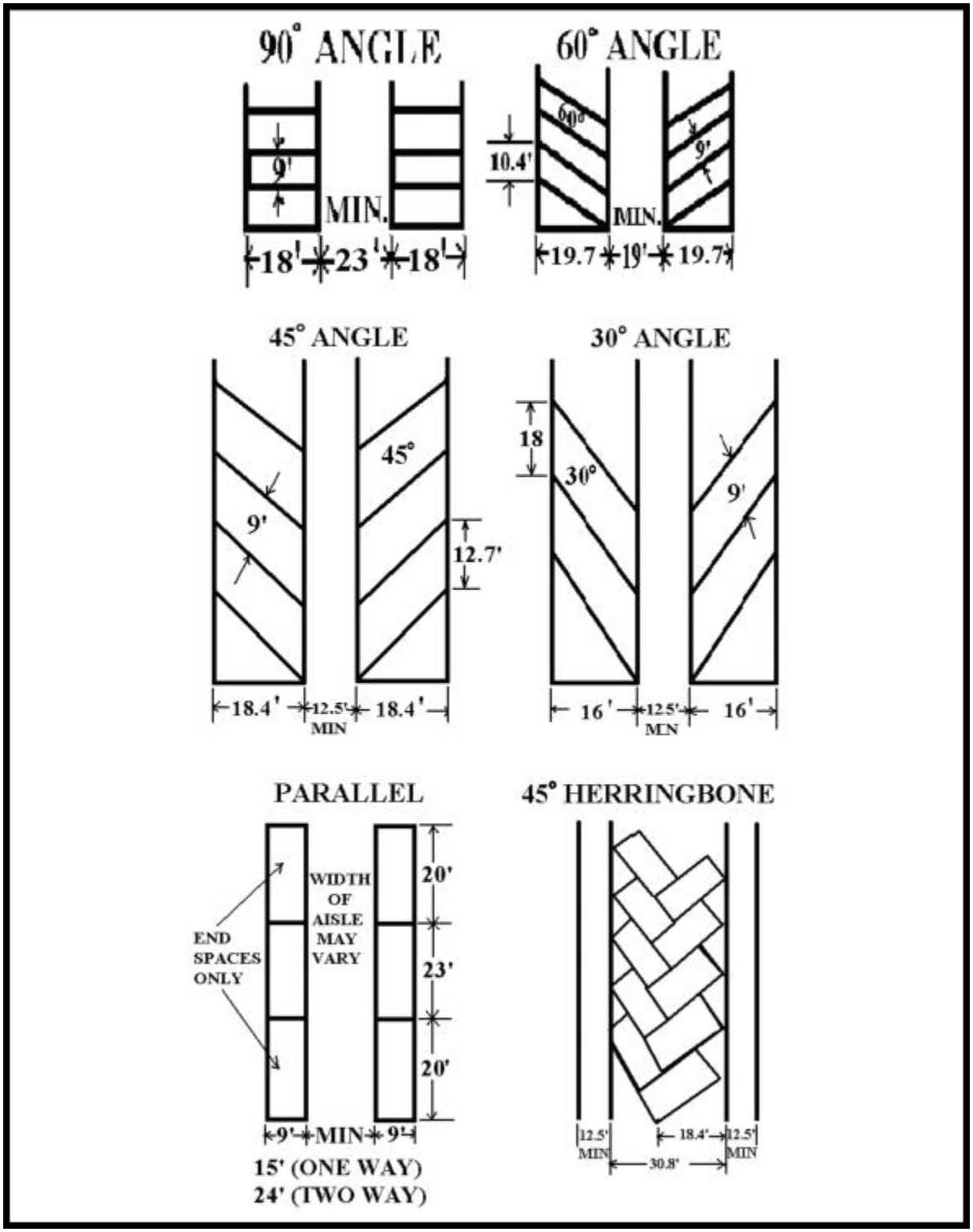
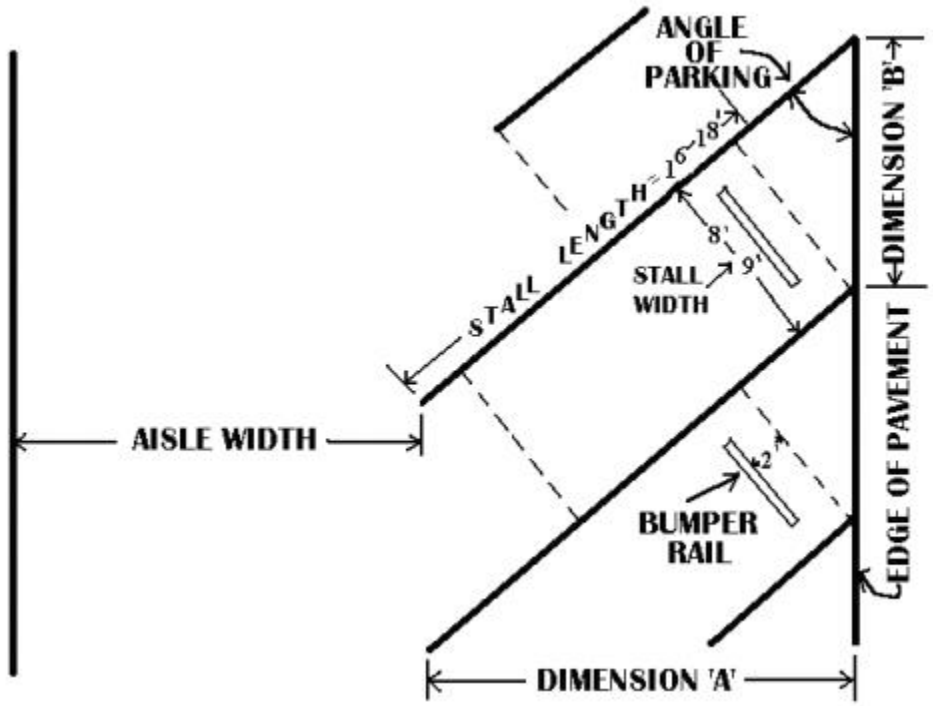


Figure 2. MINIMUM DISTANCE FOR PARKING STALLS



ANGLE OF PARKING	DIRECTION OF PARKING	AISLE WIDTH		DIMENSION 'A'		DIMENSION 'B'	
		STALL WIDTH		STALL WIDTH		STALL WIDTH	
		9.0'	8.0'	9.0'	8.0'	9.0'	8.0'
30°	DRIVE-IN	12.5'	12.5'	16.8'	13.8'	18.0'	16.0'
45°	DRIVE-IN	12.5'	12.5'	19.1'	17.0'	12.7'	11.3'
60°	DRIVE-IN	19.0'	18.0'	20.1'	17.8'	10.4'	9.2'
60°	BACK-IN	17.0'	17.0'	20.1'	17.8'	10.4'	9.2'
90°	DRIVE-IN	23.0'	23.0'	18.0'	16.0'	9.0'	8.0'
90°	BACK-IN	22.0'	22.0'	18.0'	16.0'	9.0'	8.0'

(Ord. 1425, 1998; Ord. 1463, 2000; Ord. 1513, 2005; Ord. 1547, 2007; Ord. 1590 § 1, 2009; Ord. 1604 § 46, 2011; Ord. 1622 § 25, 2014; Ord. 1623 § 4, 2014; Ord. 1635 § 24, 2014; Ord. 1736 § 1 (Exh. A), 2022)

Chapter 48

ACCESS, EGRESS AND CIRCULATION

Commentary:

This chapter contains standards for access to public streets and for on-site circulation. Many of these standards are discretionary and need to be revised to be clear and objective when applied to residential development.

See additional commentary in Sections 48.025, .030, .070, and .080.

Sections:

48.010 PURPOSE
48.020 APPLICABILITY AND GENERAL PROVISIONS
48.025 ACCESS CONTROL
48.030 MINIMUM VEHICULAR REQUIREMENTS FOR RESIDENTIAL USES
48.040 MINIMUM VEHICLE REQUIREMENTS FOR NON-RESIDENTIAL USES
48.050 ONE-WAY VEHICULAR ACCESS POINTS
48.060 WIDTH AND LOCATION OF CURB CUTS AND ACCESS SEPARATION REQUIREMENTS
48.070 PLANNING DIRECTOR'S AUTHORITY TO RESTRICT ACCESS APPEAL PROVISIONS
48.080 BICYCLE AND PEDESTRIAN CIRCULATION

48.010 PURPOSE

The purpose of this chapter is to ensure that efficient, safe, and well-directed vehicular, bicycle, and pedestrian access, circulation, and egress are designed into development proposals. Access management seeks to balance mobility, the need to provide efficient, safe and timely travel with the ability to allow access to individual properties. Proper implementation of access management techniques should guarantee reduced congestion, reduced accident rates, less need for roadway widening, conservation of energy, and reduced air pollution. (Ord. 1584, 2008)

48.020 APPLICABILITY AND GENERAL PROVISIONS

A. The provisions of this chapter do not apply where the provisions of the Transportation System Plan or land division chapter are applicable and set forth differing standards.

B. All lots shall have access from a public street or from a platted private street approved under the land division chapter.

C. No building or other permit shall be issued until scaled plans are presented to the City and approved by the City as provided by this chapter, and show how the access, egress, and circulation requirements are to be fulfilled. Access to State or County roads may require review, approval, and permits from the appropriate authority.

D. Should the owner or occupant of a lot, parcel or building enlarge or change the use to which the lot, parcel or building is put, resulting in increasing any of the requirements of this chapter, it shall be unlawful and a violation of this code to begin or maintain such altered use until the provisions of this chapter have been met, and, if required, until the appropriate approval authority under Chapter 99 CDC has approved the change.

E. Owners of two or more uses, structures, lots, parcels, or units of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the requirements as designated in this code; provided, that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases, or contracts to establish joint use. Copies of said instrument shall be placed on permanent file with the City Recorder.

F. Property owners ~~shall not be compelled to~~with access to their ~~homes~~ property via platted stems of flag lots may request alternate access as part of a discretionary review if other driveways and easements are available and approved by the City Engineer. (Ord. 1584, 2008; Ord. 1636 § 32, 2014)

48.025 ACCESS CONTROL

Commentary:

This section provides the City with quite a bit of discretion to limit access to property based on their professional judgment based on safety/traffic concerns. The proposed approach is to defer to clear and objective (C&O) access spacing and design standards where possible, and to allow exceptions only as part of a discretionary review.

A. Purpose. The following access control standards apply to public, industrial, commercial and residential developments including land divisions. Access shall be managed to maintain an adequate level of service and to maintain the functional classification of roadways as required by the West Linn Transportation System Plan.

B. All references in CDC Chapter 48 to the "adopted Transportation System Plan," "adopted TSP," or "TSP" shall refer to the City of West Linn's 2016 Transportation System Plan as amended and updated.

C~~B~~. Access control standards.

1. Traffic impact analysis requirements. ~~The City or other agency with access jurisdiction may require a~~ A traffic ~~study~~ analysis prepared by a qualified professional may be required to determine access, circulation and other transportation requirements. The purpose, applicability and standards of this analysis are found in CDC 85.170(B)(2). ~~(See also CDC 55.125, Transportation Impact Analysis.)~~

2. In order to comply with the access standards in this chapter, t~~T~~he City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit~~, to ensure the safe and efficient operation of the street and highway system~~. Access to and from off-street parking areas shall not permit backing onto a public street.

3. Access options. When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided from a public street adjacent to the development lot or parcel. Street accesses shall comply with access spacing standards in subsection (B)(6) of this section, the West Linn Public Works Design Standards, and TSP. As an alternative, the applicant may request alternative access provisions listed below as Option 1 and Option 2, subject to approval by the City Engineer through a discretionary process. ~~by one of the following methods (planned access shall be consistent with adopted public works standards and TSP). These methods are "options" as approved by the City Engineer.~~

a) Option 1. Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted. For the purpose of this subsection, a mid-block lane is a narrow private drive providing lot frontage and access for rear lot development.

b) Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., "shared driveway"). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.

~~c) Option 3. Access is from a public street adjacent to the development lot or parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in subsection (B)(6) of this section.~~

4. Subdivisions fronting onto an arterial street. New residential land divisions fronting onto an arterial street shall be required to provide alleys or secondary (local or collector) streets for access to individual lots. When alleys or secondary streets cannot be constructed due to topographic or other physical constraints, access may be provided by consolidating driveways for clusters of two or more lots ~~(e.g., includes flag lots and mid-block lanes)~~.

5. Double-frontage lots. When a lot or parcel has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street. ~~When a lot or parcel has frontage opposite that of the adjacent lots or parcels, access shall be provided from the street with the lowest classification.~~

6. Access spacing.

a. The access spacing standards found in Tables 14 and 15 of the ~~adopted Transportation System Plan (~~TSP~~)~~ and in CDC 48.060 shall be applicable to all newly established public street intersections, ~~and~~ non-traversable medians, and curb cuts. Deviation from the access spacing standards may be granted by the City Engineer as part of a discretionary review if the applicant demonstrates that the deviation will not compromise the safe and efficient operation of the street and highway system~~conditions are met as described in the access spacing variances section in the adopted TSP~~.

b. Private drives and other access ways are subject to the requirements of CDC 48.060.

7. Number of access points. For single-family (detached and attached)~~, two-family, and duplex~~ housing types, one street access point is permitted per lot or parcel, when alley access cannot otherwise be provided; except that two access points may be permitted corner lots (i.e., no more than one access per street), subject to the access spacing standards in CDC 48.060~~ subsection (B)(6) of this section~~. The number of street access points for multiple family development is subject to the access spacing standards in CDC 48.060. The number of street access points for~~ multiple family,~~ commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with subsection (C~~B~~)(8) of this section, in order to maintain the required access spacing, and minimize the number of access points.

8. Shared driveways. For residential development, shared driveways may be required in order to meet the access spacing standards in subsection (C)(6) of this section. For non-residential development, t~~T~~he number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The City shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:

a. When necessary pursuant to subsection (C)(8), above, s~~S~~hared driveways and/or frontage streets ~~may~~ shall be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. “Stub” means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent lot or parcel develops. “Developable” means that a lot or parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).

b. Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.

c. Exception. Exceptions to the s~~S~~hared driveway~~s~~ or frontage street requirements may be granted as part of a discretionary review if the City determines that~~ are not required when~~ existing development patterns or physical constraints (e.g., topography, lot or parcel configuration, and similar conditions) prevent extending the street/driveway in the future.

C. Street connectivity and formation of blocks required. In order to promote efficient vehicular and pedestrian circulation throughout the City, land divisions and ~~large~~ site developments shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards:

1. Block length and perimeter. The maximum block length shall not exceed 800 feet along a collector, neighborhood route, or local street, or 1,800 feet along an arterial, unless a smaller block length is required pursuant to CDC 85.200(B)(2).

2. Street standards. Public and private streets shall also conform to Chapter 92 CDC, Required Improvements, and to any other applicable sections of the West Linn Community Development Code and approved TSP.

3. Exception. Exceptions to the above standards may be granted as part of a discretionary review when blocks are divided by one or more pathway(s), in conformance with the provisions of CDC 85.200(C), Pedestrian and Bicycle Trails, or cases where extreme topographic (e.g., slope, creek, wetlands, etc.) conditions or compelling functional limitations preclude implementation, not just inconveniences or design challenges. (Ord. 1635 § 25, 2014; Ord. 1636 § 33, 2014; Ord. 1650 § 1 (Exh. A), 2016; Ord. 1675 § 40, 2018)

48.030 MINIMUM VEHICULAR REQUIREMENTS FOR RESIDENTIAL USES

Commentary:

Similar approaches are proposed in this section as in Section 48.025. The amendments clarify unclear language, remove discretionary language, point to existing C&O standards where possible, and allow exceptions through discretionary review.

A. Direct individual access from single-family dwellings and duplex lots to an arterial street, as designated in the ~~transportation element of the Comprehensive Plan~~TSP, is prohibited for lots or parcels created after the effective date of this code where an alternate access is either available or is proposed as part of a submitted ~~expected to be available by imminent~~ development application. Evidence of alternate or future access may include temporary cul-de-sacs, dedications or stubouts on adjacent lots or parcels, or tentative street layout plans submitted ~~at one time~~ by an adjacent property owner/developer or by the owner/developer, or previous owner/developer, of the property in question.

In the event that alternate access is not available, the applicant may request access onto an arterial street as part of a discretionary review, and approval may be granted ~~as determined~~ by the Planning Director and City Engineer~~, access may be permitted~~ after review of the following criteria:

1. Topography.

2. Traffic volume to be generated by development (i.e., trips per day).

3. Traffic volume presently carried by the street to be accessed.

4. Projected traffic volumes.

5. Safety considerations such as line of sight, number of accidents at that location, emergency vehicle access, and ability of vehicles to exit the site without backing into traffic.

6. The ability to consolidate access through the use of a joint driveway.

7. Additional review and access permits may be required by State or County agencies.

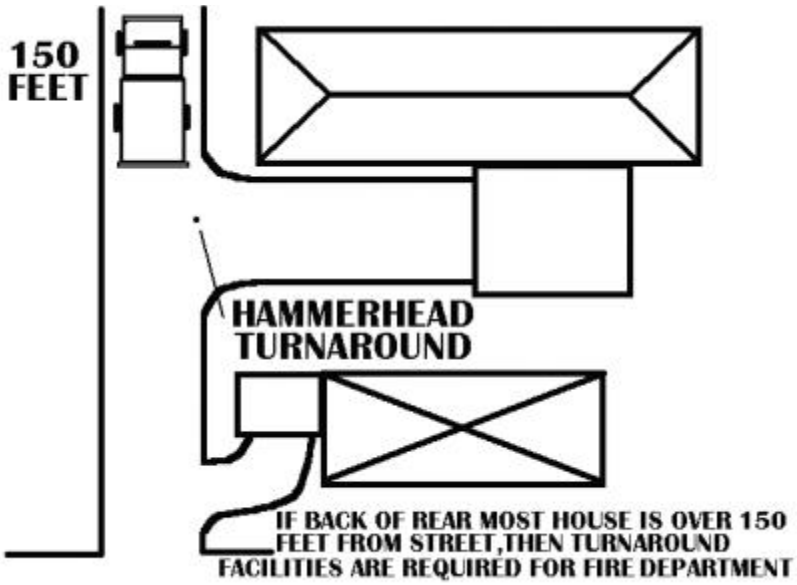
B. Driveway Standards. When any portion of any house is less than 150 feet from the adjacent right-of-way, driveway access to the home ~~is as~~shall meet the follow~~s~~ing standards:

1. One single-family residence, including residences with an accessory dwelling unit as defined in CDC 02.030, shall provide a driveway with 10 feet of unobstructed horizontal clearance. Dual-track or other driveway designs that minimize the total area of impervious driveway surface are encouraged but not required.

2. Two to four single-family residential homes ~~equals a~~shall provide a driveway with 14- to 20-foot-wide paved or all-weather surface. ~~Width shall depend upon adequacy of line of sight and number of homes.~~

3. Maximum driveway grade shall be 15 percent. The 15 percent shall be measured along the centerline of the driveway only. Variations require approval of a Class II variance by the Planning Commission pursuant to Chapter 75 CDC. ~~Regardless,~~However, in no case shall the last 18 feet in front of the garage ~~shall be under~~exceed 12 percent grade as measured along the centerline of the driveway only. Grades elsewhere along the driveway shall not apply.

4. The driveway shall include a minimum of 20 feet in length between the garage door and the back of sidewalk, or, if no sidewalk is proposed, to the paved portion of the right-of-way.



C. When any portion of one or more homes is more than 150 feet from the adjacent right-of-way, the provisions of subsection B of this section shall apply in addition to the following provisions.

1. A turnaround shall be provided if required by Tualatin Valley Fire & Rescue (TVF&R) in order to receive a Service Provider Permit~~may be required as prescribed by the Fire Chief~~.

2. Minimum vertical clearance for the driveway shall be 13 feet, six inches.

3. A minimum centerline turning radius of 45 feet is required unless waived by ~~the Fire Chief~~TVF&R.

4. There shall be sufficient horizontal clearance on either side of the driveway so that the total horizontal clearance is 20 feet.

D. Access to five or more single-family homes shall be by a street built to ~~full construction code~~City of West Linn standards, consistent with the TSP (Tables 26 through 30 and Exhibits 6 through 9) and the Public Works Design Standards. All streets shall be public. This full street provision may only be waived by variance.

E. Access and/or service drives for multi-family dwellings shall be fully improved with hard surface pavement:

1. With a minimum of 24-foot width when accommodating two-way traffic; or

2. With a minimum of 15-foot width when accommodating one-way traffic. Horizontal clearance shall be two and one-half feet wide on either side of the driveway.

3. Minimum vertical clearance of 13 feet, six inches.

4. ~~Appropriate t~~Turnaround facilities ~~per~~ as required by TVF&R ~~Fire Chief's~~ standards for emergency vehicles when the drive is over 150 feet long. Fire Department turnaround areas shall not exceed seven percent grade unless waived by ~~the Fire Chief~~TVF&R.

5. The grade shall not exceed 10 percent on average, with a maximum of 15 percent.

6. A minimum centerline turning radius of 45 feet for the curve.

F. Where on-site maneuvering and/or access drives are necessary to accommodate required parking, in no case shall said maneuvering and/or access drives be less than that required in Chapters 46 and 48 CDC.

~~G. The number of driveways or curb cuts shall be minimized on arterials or collectors. Consolidation or joint use of existing driveways shall be required when feasible.~~

G~~H~~. In order to facilitate through traffic and improve neighborhood connections, the developer shall make all local street connections identified in the Transportation System Plan, Table 17 and Figure 12, that are within the boundaries of the project, which~~it~~ may ~~be~~ necessitate~~ary to~~ construction of a public street through a multi-family site.

H~~I~~. Gated accessways to residential development other than a single-family home are prohibited. (Ord. 1408, 1998; Ord. 1463, 2000; Ord. 1513, 2005; Ord. 1584, 2008; Ord. 1590 § 1, 2009; Ord. 1636 § 34, 2014)

48.040 MINIMUM VEHICLE REQUIREMENTS FOR NON-RESIDENTIAL USES

Access, egress, and circulation system for all non-residential uses shall not be less than the following:

A. Service drives for non-residential uses shall be fully improved with hard surface pavement:

1. With a minimum of 24-foot width when accommodating two-way traffic; or

2. With a minimum of 15-foot width when accommodating one-way traffic. Horizontal clearance shall be two and one-half feet wide on either side of the driveway.

3. Meet the requirements of CDC 48.030(E)(3) through (6).

4. Pickup window driveways may be 12 feet wide unless the Fire Chief determines additional width is required.

B. All non-residential uses shall be served by one or more service drives as determined necessary to provide convenient and safe access to the property and designed according to CDC 48.030(A). In no case shall the design of the service drive or drives require or facilitate the backward movement or other maneuvering of a vehicle within a street, other than an alley.

C. All on-site maneuvering and/or access drives shall be maintained pursuant to CDC 46.130.

D. Gated accessways to non-residential uses are prohibited unless required for public safety or security. (Ord. 1408, 1998, Ord. 1463, 2000)

48.050 ONE-WAY VEHICULAR ACCESS POINTS

Where a proposed parking facility plan indicates only one-way traffic flow on the site, it shall be accommodated by a specific driveway serving the facility, and the entrance drive shall be situated closest to oncoming traffic, and the exit drive shall be situated farthest from oncoming traffic.

48.060 WIDTH AND LOCATION OF CURB CUTS AND ACCESS SEPARATION REQUIREMENTS

A. Minimum curb cut width shall be 16 feet.

B. Maximum curb cut width shall be 36 feet, except along Highway 43 in which case the maximum curb cut shall be 40 feet. For emergency service providers, including fire stations, the maximum shall be 50 feet.

C. No curb cuts shall be allowed any closer to an intersecting street right-of-way line than the following:

1. On an arterial when intersected by another arterial, 150 feet.
2. On an arterial when intersected by a collector, 100 feet.
3. On an arterial when intersected by a local street, 100 feet.
4. On a collector when intersecting an arterial street, 100 feet.
5. On a collector when intersected by another collector or local street, 35 feet.
6. On a local street when intersecting any other street, 35 feet.

D. There shall be a minimum distance between any two adjacent curb cuts on the same side of a public street, except for one-way entrances and exits, as follows:

1. On an arterial street, 150 feet.
2. On a collector street, 75 feet.
3. Between any two curb cuts on the same lot or parcel on a local street, 30 feet.

E. A rolled curb may be installed in lieu of curb cuts and access separation requirements.

F. For non-residential development, c~~C~~urb cuts shall be kept to the minimum, particularly on Highway 43. Consolidation of driveways is preferred. The standard on Highway 43 is one curb cut per business if consolidation of driveways is not possible.

G. Clear vision areas shall be maintained, pursuant to CDC Chapter 42, ~~Adequate~~ and required line of sight ~~pursuant to engineering standards should be~~shall be provided ~~afforded~~ at each driveway or accessway, pursuant to the West Linn Public Works Design Standards. (Ord. 1270, 1990; Ord. 1584, 2008; Ord. 1636 § 35, 2014)

48.070 PLANNING DIRECTOR'S AUTHORITY TO RESTRICT ACCESS APPEAL PROVISIONS

Commentary:

This section below gives the City authority to restrict access when there are problems with congestion or turning movements. Because there isn't a straightforward way to make this section C&O, the initial proposal is to limit these provisions to only discretionary applications. Further amendments may be proposed after additional discussions with staff.

A. For non-residential applications, or residential applications subject to discretionary review, i~~I~~n order to provide for increased traffic movement on congested streets and eliminate turning movement problems, the Planning Director and the City Engineer, or their designee, may restrict the location of driveways on said street and require the location of driveways on adjacent streets upon the finding that the proposed access would:

1. Provide inadequate access for emergency vehicles; or

2. Cause or increase hazardous conditions to exist which would constitute a clear and present danger to the public health safety and general welfare.

B. A decision by the Planning Director may be appealed to the Planning Commission as provided by CDC 99.240(B).

48.080 BICYCLE AND PEDESTRIAN CIRCULATION

Commentary:

The proposed amendments below clarify the meaning of "all weather material" by specifying which materials qualify and fix an outdated reference to CDC 85.200.

A. Within all multi-family developments~~ (except two-family/duplex dwellings)~~, each residential dwelling shall be connected to vehicular parking stalls, common open space, and recreation facilities by a pedestrian pathway system having a minimum width of six feet and constructed of~~ an all-weather material~~ concrete, asphalt, brick or masonry pavers, or other hard surface. The pathway material shall be of a different color or composition from the driveway. (Bicycle routes adjacent to the travel lanes do not have to be of different color or composition.)

B. Bicycle and pedestrian ways within a subdivision shall be constructed according to the provisions in CDC 85.200(C~~A)(3~~).

C. Bicycle and pedestrian ways at commercial or industrial sites shall be provided according to the provisions of Chapter 55 CDC, Design Review.

Chapter 54

LANDSCAPING

Commentary:

See proposed amendments and commentary in Sections 54.020 and 54.030.

Sections:

54.010 PURPOSE
54.020 APPROVAL CRITERIA
54.030 PLANTING STRIPS FOR MODIFIED AND NEW STREETS
54.040 INSTALLATION
54.050 PROTECTION OF STREET TREES
54.060 MAINTENANCE
54.070 SPECIFICATION SUMMARY

54.010 PURPOSE

The purpose of this chapter is to provide for the design, selection, installation, and maintenance of landscaping. The landscaping is intended to provide an attractive natural balance to built areas, to reduce runoff, to provide shade, to screen or buffer uses, and to frame or complement views. The chapter also encourages the selection of plant materials that will provide long-term growth, a balance of year-round coverage and greenery, and a variety of species for a more healthy, disease-resistant plant inventory.

54.020 APPROVAL CRITERIA

Commentary:

This section includes landscaping requirements that are either discretionary or not adequately clear. Rather than creating a two-track system for residential/C&O and non-residential/discretionary standards, the standards are proposed to be updated to be clear and objective. In most cases, only minor changes are needed.

A. Tree Preservation. ~~Every development proposal requires inventorying existing site conditions which include trees and landscaping.~~

1. Intent and Guidance. In designing the new project, every reasonable attempt should be made to preserve and protect existing trees and to incorporate them into the new landscape plan. Similarly, significant landscaping (e.g., bushes, shrubs) should be integrated. The rationale is that saving a 30-foot-tall mature tree helps maintain the continuity of the site, they are qualitatively superior to two or three two-inch caliper street trees, they provide immediate micro-climate benefits (e.g., shade), they soften views of the street, and they can increase the attractiveness, marketability, and value of the development.

2. Inventory Required. Every development proposal shall submit an inventory of existing site conditions, which include significant trees and heritage trees.

3.~~B.~~ To encourage tree preservation in parking lots, the parking requirement may be reduced by one space for every significant tree, as defined in CDC 2.030, that is preserved in the parking lot area for a maximum reduction of 10 percent of the required parking. ~~The City Parks Supervisor or Arborist shall determine the significance of the tree and/or landscaping to determine eligibility for these reductions.~~

4.~~C.~~ Developers must also comply with the municipal code chapter on tree protection, and if applicable, with CDC 55.100(B) or 55.105(B).

5.~~D.~~ Heritage trees. Heritage trees are trees which, because of their age, type, notability, or historical association, are of special importance. Heritage trees are trees designated by the City Council following review of a nomination. A heritage tree may not be removed without a public hearing at least 30 days prior to the proposed date of removal. Development proposals involving land with heritage tree(s) shall be required to protect and save the tree(s). Further discussion of heritage trees is found in the municipal code.

B~~E~~. Landscaping – By type, location and amount.

1. Residential uses (non-single-family). A minimum of 25 percent of the gross site area including parking, loading and service areas shall be landscaped, and may include the open space and recreation area requirements under CDC 55.100 or 55.105, as applicable. Parking lot landscaping may be counted in the percentage.

2. Non-residential uses. A minimum of 20 percent of the gross site area shall be landscaped. Parking lot landscaping may be counted in the percentage.

3. Parking Area Landscaping – All uses (residential uses (non-single-family) and non-residential uses):

a. ~~The landscaping shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.~~ There shall be one shade tree planted for every eight parking spaces, except as required under subsection (B)(3)(e). Shade trees are defined as medium to large trees with a mature canopy at least 40 feet in diameter and dense foliage. These trees shall be evenly distributed throughout the parking lot to provide shade.

c. Parking lots with over 20 spaces shall have a minimum 10 percent of the interior of the parking lot devoted to landscaping. Pedestrian walkways in the landscaped areas are not to be counted in the percentage. The perimeter landscaping, ~~explained in~~as provided in subsection (B~~E~~)(3)(i~~d~~) of this section, shall not be included in the 10 percent figure.

d. Parking lots with 10 to 20 spaces shall have a minimum five percent of the interior of the parking lot devoted to landscaping. The perimeter landscaping, as provided in subsection (B)(3)(i) of this section~~explained above~~, shall not be included in the five percent.

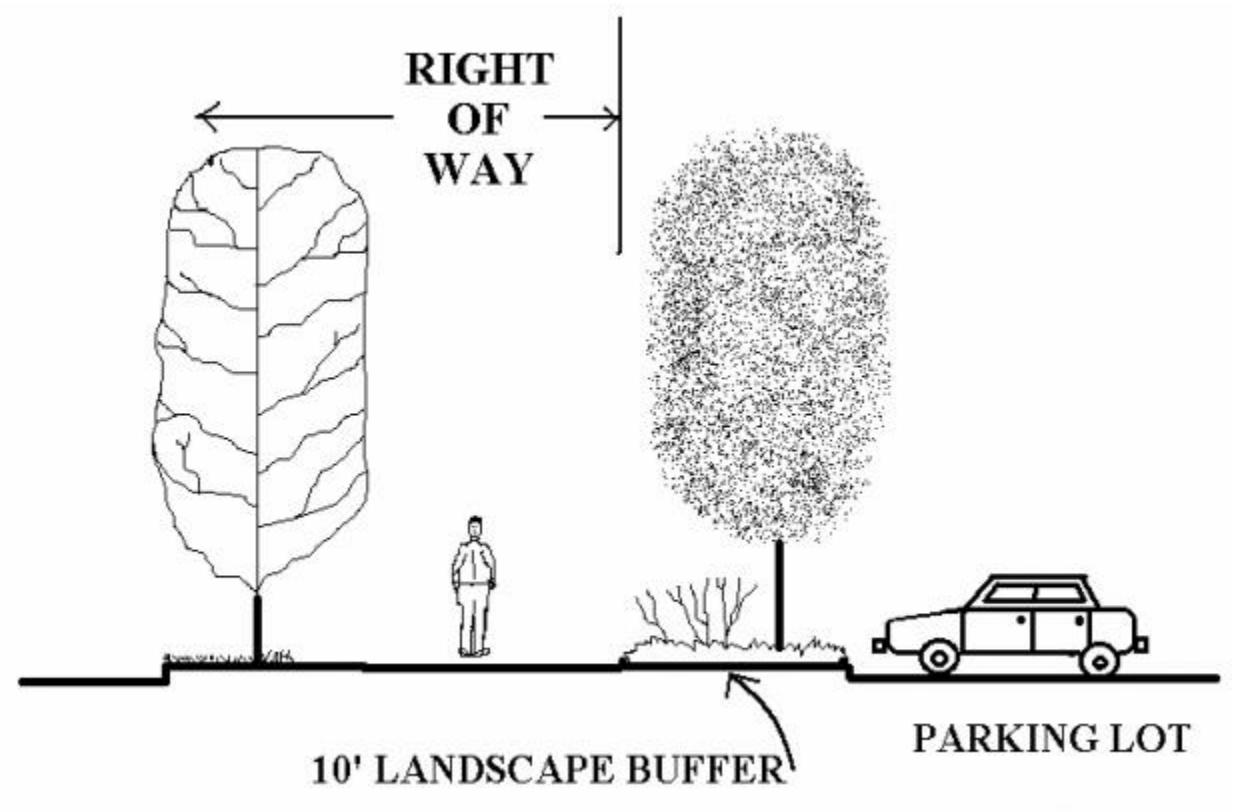
e. Parking lots with fewer than 10 spaces shall have ~~the standard~~ perimeter landscaping, if required under subsection (B)(3)(i) of this section, and at least two shade trees.

f. Non-residential parking areas paved with a permeable parking surface may reduce the required minimum interior landscaping by one-third for the area with the permeable parking surface only.

g~~b~~. The landscaped areas shall not have a width of less than five feet and shall be uniformly distributed throughout the parking or loading area.

h~~c~~. The soils, site, proposed soil amendments, and proposed irrigation system shall be appropriate for the healthy and long-term maintenance of the proposed plant species.

i~~d~~. A parking, loading, or service area which abuts a street shall be set back from the right-of-way line by perimeter landscaping in the form of a landscaped strip at least 10 feet in width. When a parking, loading, or service area or driveway is contiguous to an adjoining lot or parcel, there shall be an intervening five-foot-wide landscape strip. The landscaped area shall contain:



1) ~~Street t~~Trees spaced as appropriate to the species, not to exceed ~~50~~30 feet apart on center, on the average;

2) Shrubs, not to reach a height greater than three feet, six inches, spaced no more than five feet apart on the average; ~~or~~and

3) Vegetative ground cover such as grass, wildflowers, or other landscape material to cover 100 percent of the exposed ground within two growing seasons. No bark mulch shall be allowed except under the canopy of low level shrubs.

j~~e~~. If over 50 percent of the lineal frontage of the main street or arterial adjacent to the development site comprises parking lot, the landscape strip between the right-of-way and parking lot shall be increased to 15 feet in width and shall include terrain variations (e.g., one-foot-high berm) plus landscaping. This extra requirement only applies to one street frontage.

~~f. A parking, loading, or service area which abuts a property line shall be separated from the property line by a landscaped area at least five feet in width and which shall act as a screen and noise buffer, and the adequacy of the screen and buffer shall be determined by the criteria set forth in CDC 55.100(C) and (D), except where shared parking is approved under CDC 46.050.~~

k~~g~~. All areas in a parking lot not used for parking, maneuvering, or circulation shall be landscaped.

l~~h~~. The landscaping in parking areas shall ~~not obstruct lines of sight for safe traffic operation~~ maintain minimum vision clearance as provided in Chapter 42 CDC, Clear Vision Areas.

4. Other Landscaping Standards – All uses (residential uses (non-single-family) and non-residential uses):

a~~i~~. Outdoor storage areas, service areas (loading docks, refuse deposits, and delivery areas), and above-ground utility facilities shall be buffered and screened to obscure their view from adjoining properties and to reduce noise levels to acceptable levels at the property line. The adequacy of the buffer and screening shall be determined by the criteria set forth in CDC 55.100(C)(1) or CDC 55.105(G), as applicable.

b~~j~~. For non-residential development, c~~C~~rime prevention shall be considered and plant materials shall not be located in a manner which prohibits surveillance of public and semi-public areas (shared or common areas).

c~~k~~. Irrigation facilities shall be located so that landscaped areas can be properly maintained and so that the facilities do not interfere with vehicular or pedestrian circulation.

d~~l~~. For commercial, office, ~~multi-family,~~ and other non-residential sites, the developer shall select trees that possess the following characteristics:

1) Provide generous “spreading” canopy for shade.

2) Roots do not break up adjacent paving.

3) Tree canopy spread starts at least six feet up from grade in, or adjacent to, parking lots, roads, or sidewalks unless the tree is columnar in nature.

4) No sticky leaves or sap-dripping trees (no honey-dew excretion).

5) No seed pods or fruit-bearing trees (flowering trees are acceptable).

6) Disease-resistant.

7) Compatible with planter size.

8) Drought-tolerant unless irrigation is provided.

9) Attractive foliage or form all seasons.

~~c~~~~m~~. Plant materials (shrubs, ground cover, etc.) shall be selected for their appropriateness to the site, drought tolerance, year-round greenery and coverage, staggered flowering periods, and avoidance of nuisance plants (Scotch broom, etc.).

F. Landscaping (trees) in new subdivision.

1. Street trees shall be planted by the City within the planting strips (minimum six-foot width) of any new subdivision in conformity with the street tree plan for the area, and in accordance with the planting specifications of the Parks and Recreation Department. All trees shall be planted during the first planting season after occupancy. In selecting types of trees, the City Arborist may determine the appropriateness of the trees to local conditions and whether that tree has been overplanted, and whether alternate species should be selected. ~~Also see subsection (C) of this section.~~ Street trees shall also conform to standards in the municipal code chapter on tree protection.

2. The cost of street trees shall be paid by the developer of the subdivision.

3. The fee per street tree, as established by the City, shall be based upon the following:

a. The cost of the tree;

b. Labor and equipment for original placement;

c. Regular maintenance necessary for tree establishment during the initial two-year period following the City schedule of maintenance; and

d. A two-year replacement warranty based on the City's established failure rate.

C~~G~~. Landscaping requirements in water resource areas (WRAs). Pursuant to CDC 32.110(E)(3) the requirements of this chapter relating to total site landscaping, landscaping buffers, landscaping around parking lots, and landscaping the parking lot interior may be waived or reduced in a WRA application without a variance being required. (Ord. 1408, 1998; Ord. 1463, 2000; Ord. 1623 § 5, 2014; Ord. 1636 § 36, 2014)

54.030 PLANTING STRIPS FOR MODIFIED AND NEW STREETS

All proposed changes in width in a public street right-of-way or any proposed street improvement shall~~, where feasible,~~ include allowances for planting strips, unless an applicant demonstrates that this is not feasible and requests an exception as part of a discretionary review. Plans and specifications for planting such areas shall be integrated into the general plan of street improvements. This chapter requires any multi-family, commercial, or public facility which causes change in public right-of-way or street improvement to comply with the street tree planting plan and standards.

54.040 INSTALLATION

A. All landscaping shall be installed according to accepted planting procedures.

B. The soil and plant materials shall be of good quality.

C. Landscaping shall be installed in accordance with the provisions of this code.

D. Certificates of occupancy shall not be issued unless the landscaping requirements have been met or other arrangements have been made and approved by the City such as the posting of a bond.

54.050 PROTECTION OF STREET TREES

Street trees may not be topped or trimmed unless approval is granted by the Parks Supervisor or, in emergency cases, when a tree imminently threatens power lines.

54.060 MAINTENANCE

A. The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat, and orderly appearance and shall be kept free from refuse and debris.

B. All plant growth in interior landscaped areas shall be controlled by pruning, trimming, or otherwise so that:

1. It will not interfere with the maintenance or repair of any public utility;

2. It will not restrict pedestrian or vehicular access; and

3. It will not constitute a traffic hazard because of reduced visibility.

54.070 SPECIFICATION SUMMARY

Area/Location		Landscaping Req'd.
1.	Between parking lot and R-O-W. CDC 54.020~~(E)~~(B)(3)(d).	10 ft.
2.	Between parking lot and other lot. CDC 54.020~~(E)~~(B)(3)(b).	5 ft.
3.	Between parking lot and R-O-W if parking lot comprises more than 50 percent of main R-O-W frontage. CDC 54.020~~(E)~~(B)(3)(e).	15 ft.
4.	Percentage of residential/multi-family site to be landscaped. CDC 54.020~~(E)~~(B)(1).	25%
5.	Percentage of non-residential (commercial/industrial/office) site to be landscaped. CDC 54.020~~(E)~~(B)(2).	20%
6.	Percentage of 10 – 20 car parking lot to be landscaped (excluding perimeter). CDC 54.020~~(E)~~(B)(3)(a).	5%
7.	Percentage of 1 – 9 car parking lot to be landscaped (excluding perimeter). CDC 54.020~~(E)~~(B)(3)(a).	0%
8.	Percentage of 20+ car parking lot to be landscaped (excluding perimeter). CDC 54.020~~(E)~~(B)(3)(a).	10%

(Ord. 1675 § 42, 2018)

Chapter 55

DESIGN REVIEW

Sections:

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55.010 PURPOSE AND INTENT – GENERAL

The purpose of the design review provisions is to establish a process and standards for the review of development proposals in order to conserve and enhance the appearance of the City and to promote functional, safe, and innovative site development. Attention will be paid to the proposal's scale, layout and design, its compatibility with the surrounding natural environment, and the character of the surrounding neighborhood or area. The intent is to ensure that there is general compatibility between adjoining uses, that private and common outdoor space is provided, that vehicular access and circulation are safe, and that areas of public use are made aesthetically attractive and safe. Also of concern are the needs of persons with disabilities.

Developers of multi-family, industrial, commercial, office, and public building projects are required to take steps to reduce reliance on the automobile by, in part, encouraging other modes of transportation such as transit, bicycles, and foot traffic, and through building orientation or location. (Ord. 1650 § 1 (Exh. A), 2016)

Commentary:

Design Review (DR) applies to residential uses as follows:

- Class I: Development of a single-family dwelling, duplex, triplex, quadplex, townhouse, or cottage cluster in the Willamette Neighborhood Mixed-Use Transitional Zone, per CDC 59.070. (Note: The term "single-family dwelling" encompasses each of these housing types, except for cottage cluster, per the Definitions in Chapter 2.) This is added to the list of development subject to Class I DR below, for the sake of clarity.
- Class II: Multi-family development in any zone, plus the residential portion of a mixed-use development.

55.020 CLASSES OF DESIGN REVIEW

A. Class I Design Review. The following are subject to Class I Design Review:

1. 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.).

2. Significant road realignment (when not part of a subdivision or partition plat process). "Significant" shall be defined by the length of the realignment and/or extent of redesign, and/or the natural features or human-made structures that will be impacted or removed.

3. Addition or reduction of less than five percent of total square footage of a commercial, office, public, multi-family, or industrial building.

4. Modification of a landscape plan (including water features, ponds, pergolas, arbors, artwork, sculptings, etc.).

5. Minor modifications and/or upgrades of pump stations, reservoirs, and storm detention facilities.

6. Americans with Disability Act compliance that significantly alters the exterior of the building (ramps are exempt).

7. Freestanding art and statuary over five feet tall.

8. 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.

9. No design review is required if the applicant proposes to repair or replace one of the listed items. The Planning Director shall make the determination of whether an applicant is proposing a repair or replacement. However, Class I design review applies when one of the following improvements is part of a minor redesign or remodel.

   a. Sidewalks on private property.

   b. Loading docks.

   c. Addition or reduction of parking stalls.

   d. Revised parking alignment.

e. Revised circulation.

f. Revised points of ingress/egress to a site.

g. Heating, ventilation, and air conditioners (HVAC) that are visible from the public right-of-way.

10. New development of a single-family detached dwelling (including a duplex, triplex, or quadplex), single-family attached dwelling (including a duplex, triplex, quadplex, or townhouse), or cottage cluster in the Willamette Neighborhood Mixed-Use Transitional Zone.

B. Class II Design Review. Class II design review applies to all uses/activities except those uses/activities listed under Class I design review, and the exemptions of CDC 55.025. Class II design review applies to the proposed improvements listed in this section when the proposed improvement (e.g., new sidewalk) is part of a major commercial, office, industrial, public, or multi-family construction project (e.g., a new shopping center). (Ord. 1547, 2007; Ord. 1604 § 50, 2011; Ord. 1622 § 20, 2014)

Commentary:

Except in the Willamette Neighborhood Mixed-Use Transitional Zone, single-family detached and attached dwellings are exempt from DR. This also includes duplexes, triplexes, quadplexes, and townhouses. Middle housing types (including cottage clusters) cannot be subject to DR if single-family is not subject to DR, according to OAR 660-046.

In the current code, manufactured homes are not exempt from DR. However, House Bill 4064 (2022) precludes local governments from applying any standards to manufactured homes built on individual lots (i.e., not in manufactured home parks) that do not apply to site-built single-family homes. Therefore, DR cannot be required for manufactured homes.

Also, in current practice, accessory dwelling units (ADUs) are not subject to DR except in the historic district; however, this is not clear based on the applicability and exemptions.

As a solution, the proposed amendments list all new dwelling units other than multi-family dwellings and manufactured home parks as exempt from DR, except as indicated otherwise.

55.025 EXEMPTIONS

The following activities are exempt from the provisions of this chapter, except as indicated otherwise in the base zone or this chapter:

A. Construction of new dwelling units, except for multiple family residential units, dwelling units that are part of a mixed-use building, and manufactured home parks~~Detached single-family residential construction, except as indicated otherwise in the base zone or this chapter~~;

B. Accessory structures;

~~C. Single-family attached structures except as indicated otherwise in the base zone or this chapter;~~

~~D~~C. 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 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 (b). (Ord. 1408, 1998; Ord. 1604 § 51, 2011; Ord. 1675 § 43, 2018)

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.

2. A decision by the Planning Director may be reviewed by the City Council.

D. Substantial modifications made to the approved development plan will require reapplication (e.g., more or fewer lots, different architectural design, etc.). (Ord. 1474, 2001; Ord. 1597 § 14, 2010)

55.040 EXPIRATION OR EXTENSION OF APPROVAL

If substantial construction has not occurred within three years from the date of approval of the development plan, the approved proposal will be void, unless an extension is granted under CDC 99.325. (Ord. 1408, 1998; Ord. 1589 § 1 (Exh. A), 2010)

55.050 DESIGN REVIEW AMENDMENT TRIGGER

Amendments to design review shall be required when 10 percent or more of the housing type changes (e.g., from single-family units to multi-family units) from the tentatively approved design review plan, or when there is more than a 10 percent change in the number of units, or when the layout of streets and lots significantly changes, or adjusting more than 20 percent of the building footprint or site plan, or significant changes to the architecture that modify the style, mass, or result in elimination of significant design features. Changes in color or materials would not require an amendment unless the colors were non-earth tones and the materials were of poorer quality (for example, going from tile roof to composition roofing) than originally approved. Changes to the project/site plan to meet conditions of approval or legislative changes shall not trigger an amendment. (Ord. 1408, 1998)

55.060 STAGED OR PHASED DEVELOPMENT

The applicant may elect to develop the site in stages. Staged development shall be subject to the provisions of CDC 99.125.

55.070 SUBMITTAL REQUIREMENTS

A. The design review application shall be initiated by the property owner or the owner's agent, or condemnor.

B. A pre-application conference, per CDC 99.030(B), shall be a prerequisite to the filing of an application.

C. Documentation of any required meeting with the respective City-recognized neighborhood association per CDC 99.038.

Commentary:

The proposed amendments below clarify the meaning of "architectural work" and add a new requirement for a service provider permit from TVF&R, which is consistent with current practice.

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);

   c. Architectural drawings, including building envelopes and all elevations (CDC 55.140) only if ~~architectural work is~~ exterior architectural construction, remodeling, or changes are proposed; ~~and~~

   d. Tualatin Valley Fire & Rescue Service Provider Permit; and

   e. Pursuant to CDC 55.085, additional submittal material may be required.

One original application form must be submitted. One copy at the original scale and one copy reduced to 11 inches by 17 inches or smaller of all drawings and plans must be submitted. One copy 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 Community Development Department.

2. The development plan for a Class II design review shall contain the following elements:

   a. A site analysis (CDC 55.110);

   b. A site plan (CDC 55.120);

   c. A grading plan (CDC 55.130);

   d. Architectural drawings, indicating floor plan and elevation (CDC 55.140);

   e. A landscape plan (CDC 55.150);

   f. A utility plan appropriate to respond to the approval criteria of CDC 55.100(I)(1) through (5) relating to streets, drainage, municipal water, sanitary sewers, solid waste, and recycling storage;

   g. A light coverage plan with photometric data, including the location and type of outdoor lighting, with specific consideration given to compliance with CDC 55.100(J) pertaining to crime prevention and, if applicable, CDC 46.150(A)(13) pertaining to parking lot lighting;

   h. If staff determines before or during the pre-application conference that the land use is expected to generate noise that may exceed DEQ standards, the application shall include a noise study conducted by a

licensed acoustical engineer that demonstrates that the application and associated noise sources will meet DEQ standards. Typical noise sources of concern include, but are not limited to, vehicle drive-throughs, parking lots, HVAC units, and public address systems; and

i. Documents as required per the Tree Technical Manual.

j. Tualatin Valley Fire & Rescue Service Provider Permit.

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

4. Submit full written responses to approval criteria of CDC 55.100 for Class II design review, or CDC 55.090 for Class I design review, plus all applicable referenced approval criteria.

E. The applicant shall submit samples of all exterior building materials and colors in the case of new buildings or building remodeling.

F. The applicant shall pay the required deposit and fee. (Ord. 1401, 1997; Ord. 1408, 1998; Ord. 1442, 1999; Ord. 1613 § 11, 2013; Ord. 1621 § 25, 2014; Ord. 1622 § 14, 2014)

55.085 ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS

A. For applications subject to discretionary review, t~~T~~he Planning Director may require additional information as part of the application subject to the provisions of CDC 99.035(A).

B. For applications subject to discretionary review, t~~T~~he Planning Director may waive any requirements for the application subject to the provisions of CDC 99.035(B) and (C).

Commentary:

The proposed approach to creating a clear and objective Design Review path for housing is to create a separate set of approval criteria and standards for housing—see the new section 55.095 below for the proposed Residential/Clear and Objective criteria for Class I DR. The existing discretionary criteria would remain as-is, and would apply to any non-residential application or to any residential project for which the applicant opts for the discretionary path (i.e., the alternative track in a two-track system). If an applicant could not meet one or more of the clear and objective criteria, the discretionary criteria would apply.

NOTE: Section 55.095 is a new section that would be added to the code. The amendments are shown in blue font, but also in underline/strikeout format so it is clear how the existing criteria in 55.090 would be modified for the clear and objective path.

55.090 APPROVAL STANDARDS – CLASS I DESIGN REVIEW – GENERAL/DISCRETIONARY

The Planning Director shall make a finding with respect to the following criteria when approving, approving with conditions, or denying a Class I design review application:

A. The provisions of the following sections shall be met:

1. CDC 55.100(B)(1) through (4), Relationship to the natural and physical environment, shall apply except in those cases where the proposed development site is substantially developed and built out with no remaining natural physical features that would be impacted.

2. CDC 55.100(B)(5) and (6), architecture, et al., shall only apply in those cases that involve exterior architectural construction, remodeling, or changes.

3. Pursuant to CDC 55.085, the Director may require additional information and responses to additional sections of the approval criteria of this section depending upon the type of application.

4. The design standards or requirements identified in the base zone shall apply.

B. An application may be approved only if adequate public facilities, as defined in CDC 2.030 and pursuant to CDC 55.100(I), Public Facilities, will be available to provide service to the property at the time of occupancy.

C. The Planning Director shall determine the applicability of the approval criteria in subsection A of this section. (Ord. 1408, 1998; Ord. 1544, 2007; Ord. 1675 § 44, 2018)

55.095 APPROVAL STANDARDS – CLASS I DESIGN REVIEW – RESIDENTIAL/CLEAR AND OBJECTIVE

Applicability. Class I Design Review applications for the development of one or more new dwelling units, as applicable under CDC 55.020(A), are subject to the clear and objective approval standards in this section. Proposals where the applicant cannot or chooses not to meet the clear and objective approval standards in this section may apply under the discretionary Class I approval standards in CDC 55.090. The Planning Director shall make a finding with respect to the following criteria when approving, approving with conditions, or denying a Class I design review application:

A. Unless waived by the Planning Director, t~~T~~he provisions of the following sections shall be met:

1. CDC 55.105~~0~~(B)~~(1) through (4)~~, Relationship to the natural and physical environment, shall apply~~ except in those cases where the proposed development site is substantially developed and built out with no remaining natural physical features that would be impacted~~.

2. CDC 55.105~~0~~(C) and (D), Building Orientation and Entries and Architecture,~~(B)(5) and (6), architecture, et al.,~~ shall only apply in those cases that involve exterior architectural construction, remodeling, or changes.

~~3. Pursuant to CDC 55.085, the Director may require additional information and responses to additional sections of the approval criteria of this section depending upon the type of application.~~

3.~~4.~~ The design standards or requirements identified in the base zone shall apply.

B. An application may be approved only if adequate public facilities, as defined in CDC 2.030 and pursuant to CDC 55.105(M), Public Facilities, will be available to provide service to the property at the time of occupancy.

~~C. The Planning Director shall determine the applicability of the approval criteria in subsection A of this section.~~
(Ord. 1408, 1998; Ord. 1544, 2007; Ord. 1675 § 44, 2018)

Commentary:

The same approach described in Section 55.090 is proposed for creating a clear and objective review path for Class II DR. The existing criteria are retained for non-residential projects and for residential projects that opt into the discretionary path. A new set of clear and objective criteria is proposed as new Section 55.105, after the section below.

NOTE: One change to the existing, discretionary Class II DR criteria is proposed. Language has been added to subsection 55.100(I), which requires that "adequate public facilities" be available to the site. This language was removed from the definition of adequate public facilities in CDC Chapter 2, in order to avoid including standards in a definition (which can often be overlooked). The requirement is more useful as an approval criterion for land use applications (Design Review, Conditional Use, and Land Division), rather than in a definition.

55.100 APPROVAL STANDARDS – CLASS II DESIGN REVIEW – GENERAL/DISCRETIONARY

Except for applications subject to Section 55.105, ~~T~~the approval authority shall make findings with respect to the following criteria when approving, approving with conditions, or denying a Class II design review application:

A. The provisions of the following chapters shall be met:

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

3. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

4. Chapter 42 CDC, Clear Vision Areas.

5. Chapter 44 CDC, Fences.

6. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

7. Chapter 48 CDC, Access, Egress and Circulation.

8. Chapter 52 CDC, Signs.

9. Chapter 54 CDC, Landscaping.

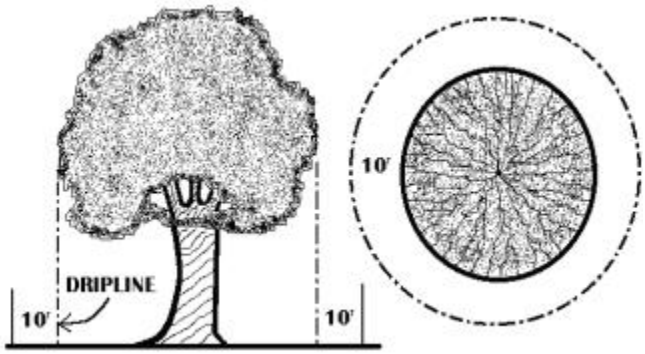
B. Relationship to the natural and physical environment.

1. The buildings and other site elements shall be designed and located so that all heritage trees, as defined in the municipal code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at their direction.

2. All heritage trees, as defined in the municipal code, all trees and clusters of trees ("cluster" is defined as three or more trees with overlapping driplines; however, native oaks need not have an overlapping dripline) that are considered significant by the City Arborist, either individually or in consultation with certified arborists or similarly qualified professionals, based on accepted arboricultural standards including consideration of their size, type, location, health, long term survivability, and/or numbers, shall be protected pursuant to the criteria of subsections (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

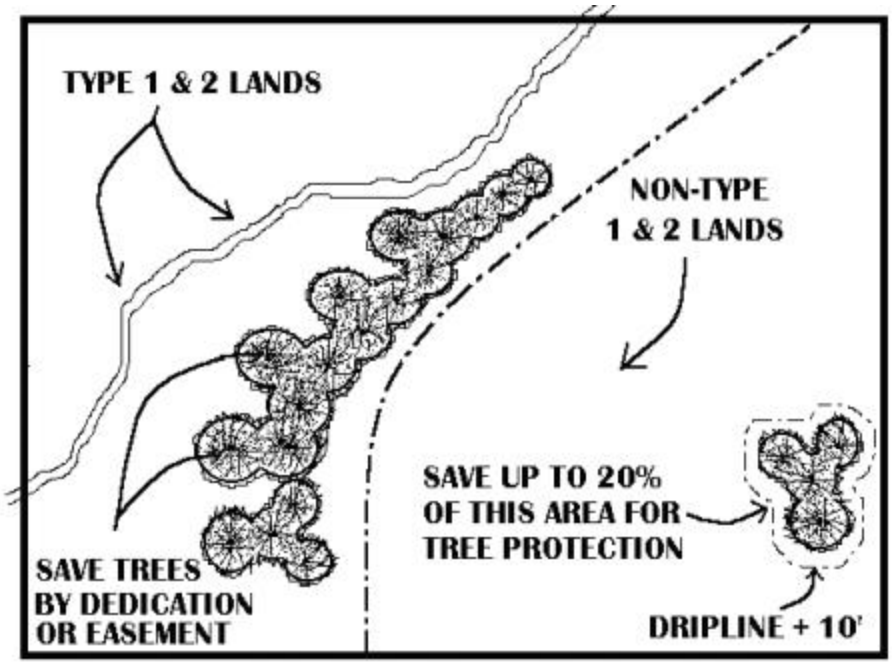
that all trees are not significant and, further, that this code section will not necessarily protect all trees deemed significant.

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 limiting development in the protected area. The protected area includes the protected tree, its dripline, and an additional 10 feet beyond the dripline, as depicted in the figure below. 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 plus 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 protected areas for significant trees and tree clusters, 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 by limiting development in the protected areas. 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 lot or 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.

e. For arterial and collector street projects, including Oregon Department of Transportation street improvements, the roads and graded areas shall avoid tree clusters where possible. Significant trees, tree clusters, and heritage tree loss may occur, however, but shall be minimized.

f. If the protection of significant tree(s) or tree clusters is to occur in an area of grading that is necessary for the development of street grades, per City construction codes, which will result in an adjustment in the grade of over or under two feet, which will then threaten the health of the tree(s), the applicant will submit evidence to the Planning Director that all reasonable alternative grading plans have been considered and cannot work. The applicant will then submit a mitigation plan to the City Arborist to compensate for the removal of the tree(s) on an “inch by inch” basis (e.g., a 48-inch Douglas fir could be replaced by 12 trees, each four-inch). The mix of tree sizes and types shall be approved by the City Arborist.

3. The topography and natural drainage shall be preserved to the greatest degree possible.

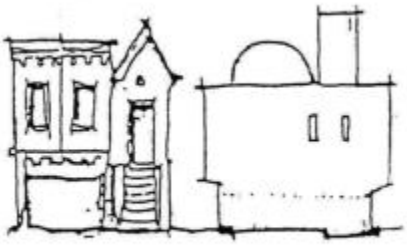
4. The structures shall not be located in areas subject to slumping and sliding. The Comprehensive Plan Background Report's Hazard Map, or updated material as available and as deemed acceptable by the Planning Director, shall be the basis for preliminary determination.

5. There shall be adequate distance between on-site buildings and on-site and off-site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection.

6. Architecture.

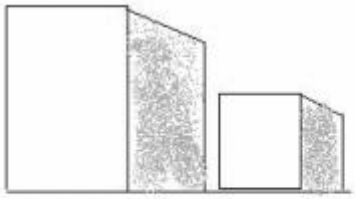
a. The proposed structure(s) scale shall be compatible with the existing structure(s) on site and on adjoining sites. Contextual design is required. Contextual design means respecting and incorporating prominent architectural styles, building lines, roof forms, rhythm of windows, building scale and massing of surrounding buildings in the proposed structure. The materials and colors shall be complementary to the surrounding buildings.

contextual design

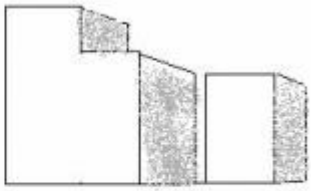


contrasting design

b. While there has been discussion in Chapter 24 CDC about transition, it is appropriate that new buildings should architecturally transition in terms of bulk and mass to work with, or fit, adjacent existing buildings. This transition can be accomplished by selecting designs that "step down" or "step up" from small to big structures and vice versa (see figure below). Transitions may also take the form of carrying building patterns and lines (e.g., parapets, windows, etc.) from the existing building to the new one.



mass/bulk overwhelms smaller building



mass/bulk effectively transitions

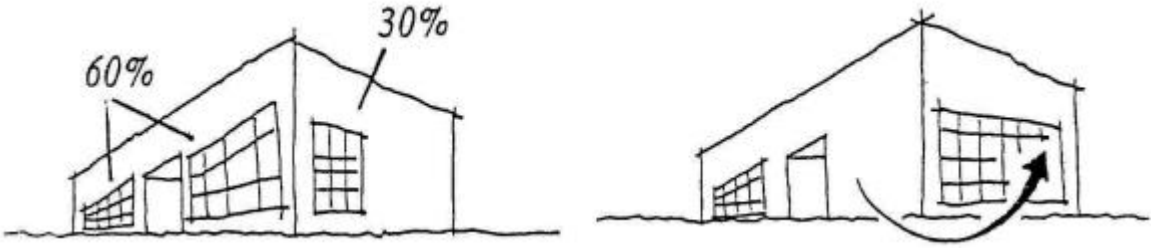
c. Contrasting architecture shall only be permitted when the design is manifestly superior to adjacent architecture in terms of creativity, design, and workmanship, and/or it is adequately separated from other buildings by distance, screening, grade variations, or is part of a development site that is large enough to set its own style of architecture.

d. Human scale is a term that seeks to accommodate the users of the building and the notion that buildings should be designed around the human scale (i.e., their size and the average range of their perception). Human scale shall be accommodated in all designs by, for example, multi-light windows that are broken up into numerous panes, intimately scaled entryways, and visual breaks (exaggerated eaves, indentations, ledges, parapets, awnings, engaged columns, etc.) in the facades of buildings, both vertically and horizontally.

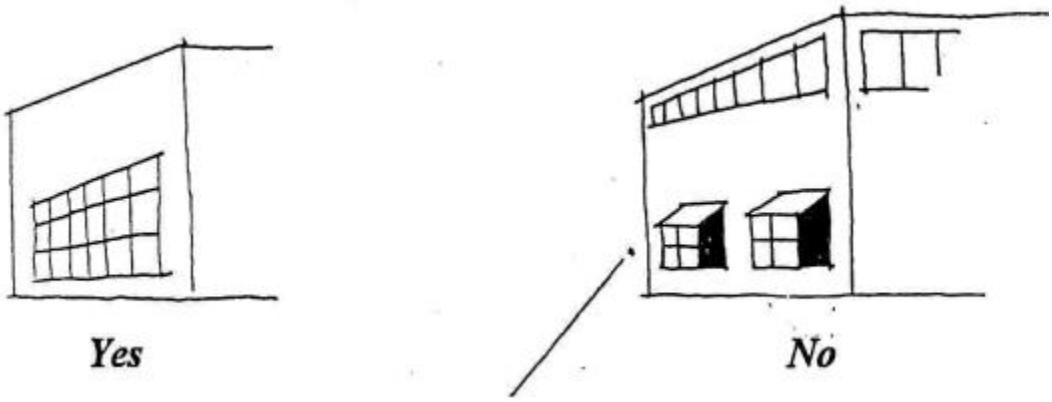
The human scale is enhanced by bringing the building and its main entrance up to the edge of the sidewalk. It creates a more dramatic and interesting streetscape and improves the "height and width" ratio referenced in this section.

human scale is captured in this example

e. The main front elevation of commercial and office buildings shall provide at least 60 percent windows or transparency at the pedestrian level to create more interesting streetscape and window shopping opportunities. One side elevation shall provide at least 30 percent transparency. Any additional side or rear elevation, which is visible from a collector road or greater classification, shall also have at least 30 percent transparency. Transparency on other elevations is optional. The transparency is measured in lineal fashion. For example, a 100-foot-long building elevation shall have at least 60 feet (60 percent of 100 feet) in length of windows. The window height shall be, at minimum, three feet tall. The exception to transparency would be cases where demonstrated functional constraints or topography restrict that elevation from being used. When this exemption is applied to the main front elevation, the square footage of transparency that would ordinarily be required by the above formula shall be installed on the remaining elevations at pedestrian level in addition to any transparency required by a side elevation, and vice versa. The rear of the building is not required to include transparency. The transparency must be flush with the building elevation.



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



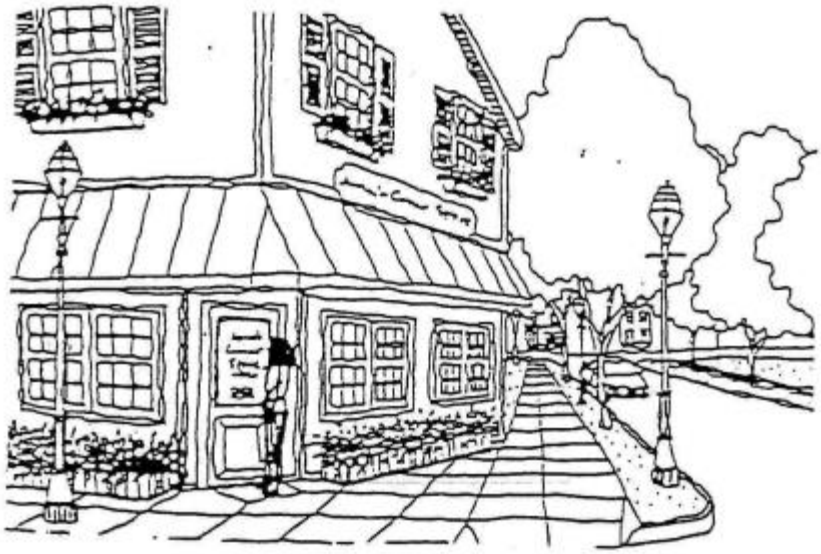
(Windows not at eye level and/or not flush with building.)

f. Variations in depth and roof line are encouraged for all elevations.

To vary the otherwise blank wall of most rear elevations, continuous flat elevations of over 100 feet in length should be avoided by indents or variations in the wall. The use of decorative brick, masonry, or stone insets and/or designs is encouraged. Another way to vary or soften this elevation is through terrain variations such as an undulating grass area with trees to provide vertical relief.

g. Consideration of the micro-climate (e.g., sensitivity to wind, sun angles, shade, etc.) shall be made for building users, pedestrians, and transit users, including features like awnings.

h. The vision statement identified a strong commitment to developing safe and attractive pedestrian environments with broad sidewalks, canopied with trees and awnings.



trees, awnings, and building orientation enhance micro-climate

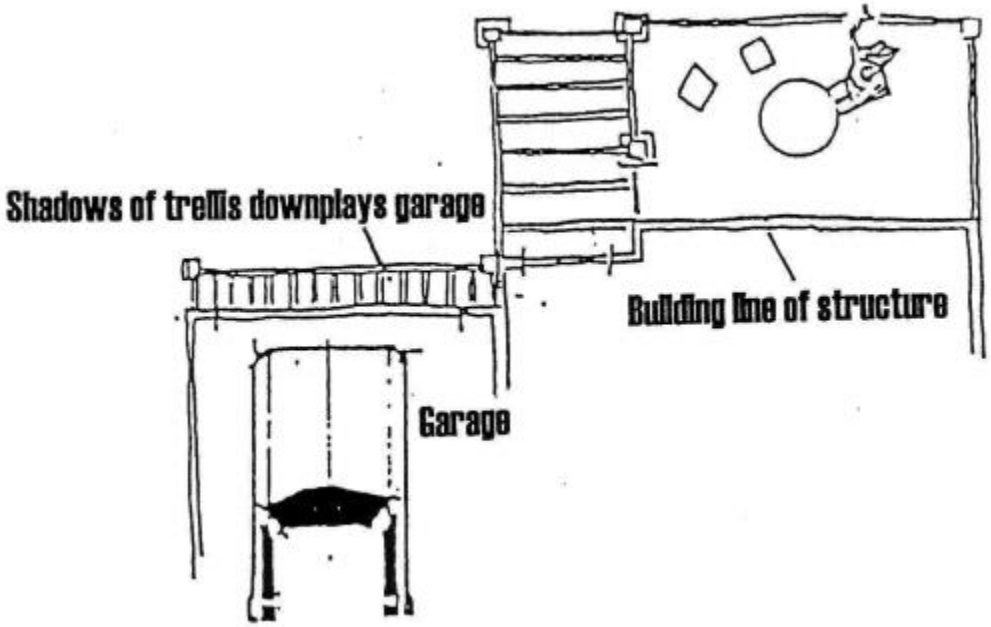
i. Sidewalk cafes, kiosks, vendors, and street furniture are encouraged. However, at least a four-foot-wide pedestrian accessway must be maintained per Chapter 53 CDC, Sidewalk Use.

7. Transportation. The automobile shall be shifted from a dominant role, relative to other modes of transportation, by the following means:

a. Commercial and office development shall be oriented to the street. At least one public entrance shall be located facing an arterial street; or, if the project does not front on an arterial, facing a collector street; or, if the project does not front on a collector, facing the local street with highest traffic levels. Parking lots shall be placed behind or to the side of commercial and office development. When a large and/or multi-building development is occurring on a large undeveloped tract (three plus acres), it is acceptable to focus internally; however, at least 20 percent of the main adjacent right-of-way shall have buildings contiguous to it unless waived per subsection (B)(7)(c) of this section. These buildings shall be oriented to the adjacent street and include pedestrian-oriented transparencies on those elevations.

For individual buildings on smaller individual lots, at least 30 lineal feet or 50 percent of the building must be adjacent to the right-of-way unless waived per subsection (B)(7)(c) of this section. The elevations oriented to the right-of-way must incorporate pedestrian-oriented transparency.

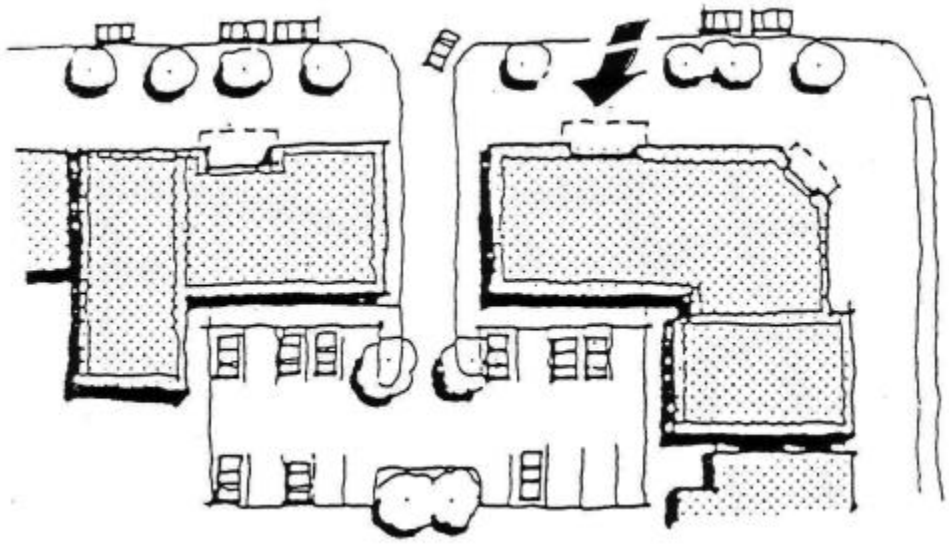
b. Multi-family projects shall be required to keep the parking at the side or rear of the buildings or behind the building line of the structure as it would appear from the right-of-way inside the multi-family project. For any garage which is located behind the building line of the structure, but still facing the front of the structure, architectural features such as patios, patio walls, trellis, porch roofs, overhangs, pergolas, etc., shall be used to downplay the visual impact of the garage, and to emphasize the rest of the house and front entry.



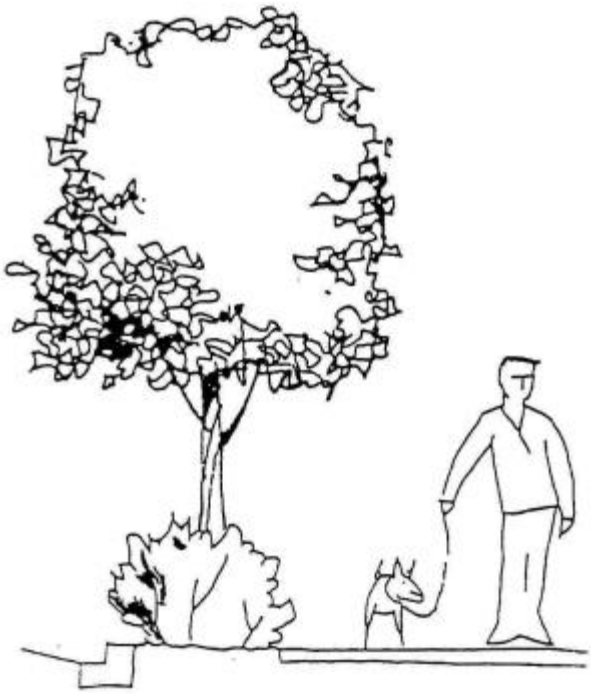
The parking may be positioned inside small courtyard areas around which the units are built. These courtyard spaces encourage socialization, defensible space, and can provide a central location for landscaping, particularly trees, which can provide an effective canopy and softening effect on the courtyard in only a few years. Vehicular access and driveways through these courtyard areas is permitted.

c. Commercial, office, and multi-family projects shall be built as close to the adjacent main right-of-way as practical to facilitate safe pedestrian and transit access. Reduced frontages by buildings on public rights-of-way may be allowed due to extreme topographic (e.g., slope, creek, wetlands, etc.) conditions or compelling functional limitations, not just inconveniences or design challenges.

entrance from right-of-way

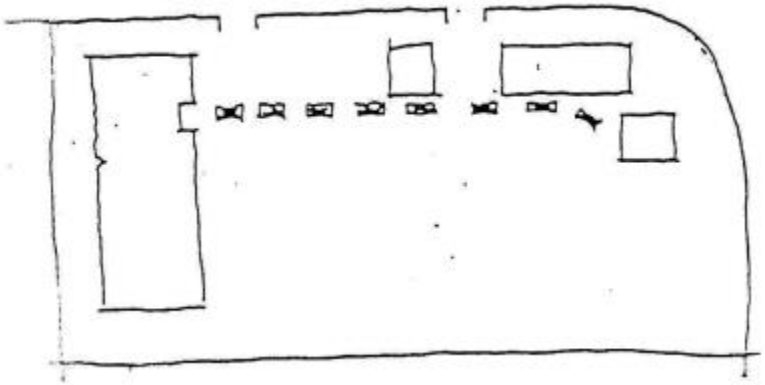


d. Accessways, parking lots, and internal driveways shall accommodate pedestrian circulation and access by specially textured, colored, or clearly defined footpaths at least six feet wide. Paths shall be eight feet wide when abutting parking areas or travel lanes. Paths shall be separated from parking or travel lanes by either landscaping, planters, curbs, bollards, or raised surfaces. Sidewalks in front of storefronts on the arterials and main store entrances on the arterials identified in CDC 85.200(A)(3) shall be 12 feet wide to accommodate pedestrians, sidewalk sales, sidewalk cafes, etc. Sidewalks in front of storefronts and main store entrances in commercial/OBC zone development on local streets and collectors shall be eight feet wide.



landscaping

e. Paths shall provide direct routes that pedestrians will use between buildings, adjacent rights-of-way, and adjacent commercial developments. They shall be clearly identified. They shall be laid out to attract use and to discourage people from cutting through parking lots and impacting environmentally sensitive areas.

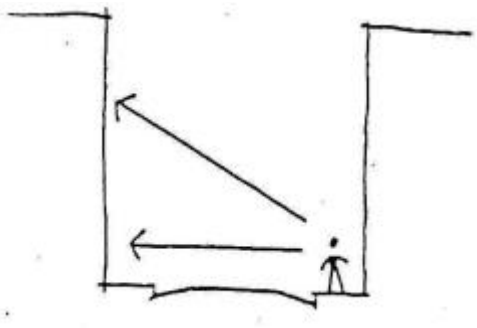


direct pedestrian route required (- -)

f. At least one entrance to the building shall be on the main street, or as close as possible to the main street. The entrance shall be designed to identify itself as a main point of ingress/egress.

g. Where transit service exists, or is expected to exist, there shall be a main entrance within a safe and reasonable distance of the transit stop. A pathway shall be provided to facilitate a direct connection.

h. Projects shall bring at least part of the project adjacent to or near the main street right-of-way in order to enhance the height-to-width ratio along that particular street. (The "height-to-width ratio" is an architectural term that emphasizes height or vertical dimension of buildings adjacent to streets. The higher and closer the building is, and the narrower the width of the street, the more attractive and intimate the streetscape becomes.) For every one foot in street width, the adjacent building ideally should be one to two feet higher. This ratio is considered ideal in framing and defining the streetscape.



1:1 height to width ratio is ideal

(example only)

i. These architectural standards shall apply to public facilities such as reservoirs, water towers, treatment plants, fire stations, pump stations, power transmission facilities, etc. It is recognized that many of these facilities, due to their functional requirements, cannot readily be configured to meet these architectural standards. However, attempts shall be made to make the design sympathetic to surrounding properties by landscaping, setbacks, buffers, and all reasonable architectural means.

j. Parking spaces at trailheads shall be located so as to preserve the view of, and access to, the trailhead entrance from the roadway. The entrance apron to the trailhead shall be marked: "No Parking," and include design features to foster trail recognition.

C. Compatibility between adjoining uses, buffering, and screening.

1. In addition to the compatibility requirements contained in Chapter 24 CDC, buffering shall be provided between different types of land uses; for example, buffering between single-family homes and apartment blocks. However, no buffering is required between single-family homes and duplexes or single-family attached units. The following factors shall be considered in determining the adequacy of the type and extent of the buffer:

a. The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier.

b. The size of the buffer required to achieve the purpose in terms of width and height.

c. The direction(s) from which buffering is needed.

d. The required density of the buffering.

e. Whether the viewer is stationary or mobile.

2. On-site screening from view from adjoining properties of such things as service areas, storage areas, and parking lots shall be provided and the following factors will be considered in determining the adequacy of the type and extent of the screening:

a. What needs to be screened?

b. The direction from which it is needed.

c. How dense the screen needs to be.

d. Whether the viewer is stationary or mobile.

e. Whether the screening needs to be year-round.

3. Rooftop air cooling and heating systems and other mechanical equipment shall be screened from view from adjoining properties.

D. Privacy and noise.

1. Structures which include residential dwelling units shall provide private outdoor areas for each ground floor unit which is screened from view from adjoining units.

2. Residential dwelling units shall be placed on the site in areas having minimal noise exposure to the extent possible. Natural-appearing sound barriers shall be used to lessen noise impacts where noise levels exceed the noise standards contained in West Linn Municipal Code Section 5.487.

3. Structures or on-site activity areas which generate noise, lights, or glare shall be buffered from adjoining residential uses in accordance with the standards in subsection C of this section where applicable.

4. Businesses or activities that can reasonably be expected to generate noise in excess of the noise standards contained in West Linn Municipal Code Section 5.487 shall undertake and submit appropriate noise studies and mitigate as necessary to comply with the code. (See CDC 55.110(B)(11) and 55.120(M).)

If the decision-making authority reasonably believes a proposed use may generate noise exceeding the standards specified in the municipal code, then the authority may require the applicant to supply professional noise studies from time to time during the user's first year of operation to monitor compliance with City standards and permit requirements.

E. Private outdoor area. This section only applies to multi-family projects.

1. In addition to the requirements of residential living, unit shall have an outdoor private area (patio, terrace, porch) of not less than 48 square feet in area;

2. The outdoor space shall be oriented towards the sun where possible; and

3. The area shall be screened or designed to provide privacy for the users of the space.

4. Where balconies are added to units, the balconies shall not be less than 48 square feet, if they are intended to be counted as private outdoor areas.

F. Shared outdoor recreation areas. This section only applies to multi-family projects and projects with 10 or more duplexes or single-family attached dwellings on lots under 4,000 square feet. In those cases, shared outdoor recreation areas are calculated on the duplexes or single-family attached dwellings only. It also applies to qualifying PUDs under the provisions of CDC 24.170.

1. In addition to the requirements of subsection E of this section, usable outdoor recreation space shall be provided in residential developments for the shared or common use of all the residents in the following amounts:

a. Studio up to and including two-bedroom units: 200 square feet per unit.

b. Three or more bedroom units: 300 square feet per unit.

2. The required recreation space may be provided as follows:

a. It may be all outdoor space; or

b. It may be part outdoor space and part indoor space; for example, an outdoor tennis court and indoor recreation room; and

c. Where some or all of the required recreation area is indoor, such as an indoor recreation room, then these indoor areas must be readily accessible to all residents of the development subject to clearly posted restrictions as to hours of operation and such regulations necessary for the safety of minors.

d. In considering the requirements of this subsection F, the emphasis shall be on usable recreation space. No single area of outdoor recreational space shall encompass an area of less than 250 square feet. All common outdoor recreational space shall be clearly delineated and readily identifiable as such. Small, marginal, and incidental lots or parcels of land are not usable recreation spaces. The location of outdoor recreation space should be integral to the overall design concept of the site and be free of hazards or constraints that would interfere with active recreation.

3. The shared space shall be readily observable to facilitate crime prevention and safety.

G. Demarcation of public, semi-public, and private spaces. The structures and site improvements shall be designed so that public areas such as streets or public gathering places, semi-public areas, and private outdoor areas are clearly defined in order to establish persons having a right to be in the space, to provide for crime prevention, and to establish maintenance responsibility. These areas may be defined by:

1. A deck, patio, fence, low wall, hedge, or draping vine;

2. A trellis or arbor;

3. A change in level;

4. A change in the texture of the path material;

5. Sign; or

6. Landscaping.

Use of gates to demarcate the boundary between a public street and a private access driveway is prohibited.

H. Public transit.

1. Provisions for public transit may be required where the site abuts an existing or planned public transit route. The required facilities shall be based on the following:

a. The location of other transit facilities in the area.

b. The size and type of the proposed development.

c. The rough proportionality between the impacts from the development and the required facility.

2. The required facilities shall be limited to such facilities as the following:

a. A waiting shelter with a bench surrounded by a three-sided covered structure, with transparency to allow easy surveillance of approaching buses.

b. A turnout area for loading and unloading designed per regional transit agency standards.

c. Hard-surface paths connecting the development to the waiting and boarding areas.

d. Regional transit agency standards shall, however, prevail if they supersede these standards.

3. The transit stop shall be located as close as possible to the main entrance to the shopping center, public or office building, or multi-family project. The entrance shall not be more than 200 feet from the transit stop with a clearly identified pedestrian link.

4. All commercial business centers (over three acres) and multi-family projects (over 40 units) may be required to provide for the relocation of transit stops to the front of the site if the existing stop is within 200 to 400 yards of the site and the exaction is roughly proportional to the impact of the development. The commercial or multi-family project may be required to provide new facilities in those cases where the nearest stop is over 400 yards away. The transit stop shall be built per subsection (H)(2) of this section.

I. Public facilities. An application may only be approved if adequate public facilities, as defined in CDC 2.030, will be available to provide service to the property prior to occupancy.

1. In situations where the level-of-service or volume-to-capacity performance standard for an affected City or State roadway is currently failing or projected to fail to meet the standard, and an improvement project is not programmed, the development shall avoid further degradation of the affected transportation facility. Mitigation must be provided to bring the facility performance standard to existing conditions at the time of occupancy.

2~~1~~. Streets. Sufficient right-of-way and slope easement shall be dedicated to accommodate all abutting streets to be improved to the City's Improvement Standards and Specifications. The City Engineer shall determine the appropriate level of street and traffic control improvements to be required, including any off-site street and traffic control improvements, based upon the transportation analysis submitted. The City Engineer's determination of developer obligation, the extent of road improvement and City's share, if any, of improvements and the timing of improvements shall be made based upon the City's systems development charge ordinance and capital improvement program, and the rough proportionality between the impact of the development and the street improvements.

In determining the appropriate sizing of the street in commercial, office, multi-family, and public settings, the street should be the minimum necessary to accommodate anticipated traffic load and needs and should provide substantial accommodations for pedestrians and bicyclists. Road and driveway alignment should consider and mitigate impacts on adjacent properties and in neighborhoods in terms of increased traffic loads, noise, vibrations, and glare.

The realignment or redesign of roads shall consider how the proposal meets accepted engineering standards, enhances public safety, and favorably relates to adjacent lands and land uses. Consideration should also be given to selecting an alignment or design that minimizes or avoids hazard areas and loss of significant natural features (drainageways, wetlands, heavily forested areas, etc.) unless site mitigation can clearly produce a superior landscape in terms of shape, grades, and reforestation, and is fully consistent with applicable code restrictions regarding resource areas.

Streets shall be installed per Chapter 85 CDC standards. The City Engineer has the authority to require that street widths match adjacent street widths. Sidewalks shall be installed per CDC 85.200(A)(3) for commercial and office projects, and CDC 85.200(A)(16) and 92.010(H) for residential projects, and applicable provisions of this chapter. Where streets bisect or traverse water resource areas (WRAs) the street width shall be reduced to the appropriate "constrained" cross-section width indicated in the TSP or alternate configurations which are appropriate to site conditions, minimize WRA disturbance or are consistent with an adopted transportation system plan. The street design shall also be consistent with habitat friendly provisions of CDC 32.060(I).

Based upon the City Manager's or Manager's designee's determination, the applicant shall construct or cause to be constructed, or contribute a proportionate share of the costs, for all necessary off-site improvements identified by the transportation analysis commissioned to address CDC 55.125 that are required to mitigate impacts from the proposed development. Proportionate share of the costs shall be determined by the City Manager or Manager's designee, who shall assume that the proposed development provides improvements in rough proportion to identified impacts of the development.

3~~2~~. Storm detention and treatment and geologic hazards. Per the submittals required by CDC 55.130 and 92.010(E), all proposed storm detention and treatment facilities must comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards, there will be no adverse off-site impacts caused by the development (including impacts from increased intensity of runoff downstream or constrictions causing ponding upstream), and the applicant must provide sufficient factual data to support the conclusions of the submitted plan.

Per the submittals required by CDC 55.130(E), the applicant must demonstrate that the proposed methods of rendering known or potential hazard sites safe for development, including proposed geotechnical remediation, are feasible and adequate to prevent landslides or other damage to property and safety. The review authority may impose conditions, including limits on type or intensity of land use, which it determines are necessary to mitigate known risks of landslides or property damage.

4~~3~~. Municipal water. A registered civil engineer shall prepare a plan for the provision of water which demonstrates to the City Engineer's satisfaction the availability of sufficient volume, capacity, and pressure to serve the proposed development's domestic, commercial, and industrial fire flows. All plans will then be reviewed by the City Engineer.

5~~4~~. Sanitary sewers. A registered civil engineer shall prepare a sewerage collection system plan which demonstrates sufficient on-site capacity to serve the proposed development. The City Engineer shall determine whether the existing City system has sufficient capacity to serve the development.

6~~5~~. Solid waste and recycling storage areas. Appropriately sized and located solid waste and recycling storage areas shall be provided. Metro standards shall be used.

J. Crime prevention and safety/defensible space.

1. Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants.

2. Interior laundry and service areas shall be located in a way that they can be observed by others.

3. Mailboxes, recycling, and solid waste facilities shall be located in lighted areas having vehicular or pedestrian traffic.

4. The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime.

5. Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps, and abrupt grade changes.

6. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person. All commercial, industrial, residential, and public facility projects undergoing design review shall use low or high pressure sodium bulbs and be able to demonstrate effective shielding so that the light is directed downwards rather than omni-directional. Omni-directional lights of an ornamental nature may be used in general commercial districts only.

7. Lines of sight shall be reasonably established so that the development site is visible to police and residents.

8. Security fences for utilities (e.g., power transformers, pump stations, pipeline control equipment, etc.) or wireless communication facilities may be up to eight feet tall in order to protect public safety. No variances are required regardless of location.

K. Provisions for persons with disabilities.

1. The needs of a person with a disability shall be provided for. Accessible routes shall be provided between all buildings and accessible site facilities. The accessible route shall be the most practical direct route between accessible building entries, accessible site facilities, and the accessible entry to the site. An accessible route

shall connect to the public right-of-way and to at least one on-site or adjacent transit stop (if the area is served by transit). All facilities shall conform to, or exceed, the Americans with Disabilities Act (ADA) standards, including those included in the Uniform Building Code.

L. Signs.

1. Based on considerations of crime prevention and the needs of emergency vehicles, a system of signs for identifying the location of each residential unit, store, or industry shall be established.

buildings shall be numbered for emergency identification

2. The signs, graphics, and letter styles shall be designed to be compatible with surrounding development, to contribute to a sense of project identity, or, when appropriate, to reflect a sense of the history of the area and the architectural style.

3. The sign graphics and letter styles shall announce, inform, and designate particular areas or uses as simply and clearly as possible.

4. The signs shall not obscure vehicle driver's sight distance.

5. Signs indicating future use shall be installed on land dedicated for public facilities (e.g., parks, water reservoir, fire halls, etc.).

6. Signs and appropriate traffic control devices and markings shall be installed or painted in the driveway and parking lot areas to identify bicycle and pedestrian routes.

M. Utilities. The developer shall make necessary arrangements with utility companies or other persons or corporations affected for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting, and cable television, shall be placed underground, as practical. The design standards of Tables 1 and 2 above, and of subsection 5.487 of the West Linn Municipal Code relative to existing high ambient noise levels shall apply to this section.

N. Wireless communication facilities (WCFs). (This section only applicable to WCFs.) WCFs as defined in Chapter 57 CDC may be required to go through Class I or Class II design review. The approval criteria for Class I design review is that the visual impact of the WCF shall be minimal to the extent allowed by Chapter 57 CDC. Stealth designs shall be sufficiently camouflaged so that they are not easily seen by passersby in the public right-of-way or from any adjoining residential unit. WCFs that are classified as Class II design review must respond to all of the approval criteria of this chapter.

O. Refuse and recycling standards.

1. All commercial, industrial and multi-family developments over five units requiring Class II design review shall comply with the standards set forth in these provisions. Modifications to these provisions may be permitted if the Planning Commission determines that the changes are consistent with the purpose of these provisions and the City receives written evidence from the local franchised solid waste and recycling firm that they are in agreement with the proposed modifications.

2. Compactors, containers, and drop boxes shall be located on a level Portland cement concrete pad, a minimum of four inches thick, at ground elevation or other location compatible with the local franchise collection firm's equipment at the time of construction. The pad shall be designed to discharge surface water runoff to avoid ponding.

3. Recycling and solid waste service areas.

a. Recycling receptacles shall be designed and located to serve the collection requirements for the specific type of material.

b. The recycling area shall be located in close proximity to the garbage container areas and be accessible to the local franchised collection firm's equipment.

c. Recycling receptacles or shelters located outside a structure shall have lids and be covered by a roof constructed of water and insect-resistive material. The maintenance of enclosures, receptacles and shelters is the responsibility of the property owner.

d. The location of the recycling area and method of storage shall be approved by the local fire marshal.

e. Recycling and solid waste service areas shall be at ground level and/or otherwise accessible to the franchised solid waste and recycling collection firm.

f. Recycling and solid waste service areas shall be used only for purposes of storing solid waste and recyclable materials and shall not be a general storage area to store personal belongings of tenants, lessees, property management or owners of the development or premises.

g. Recyclable material service areas shall be maintained in a clean and safe condition.

4. Special wastes or recyclable materials.

a. Environmentally hazardous wastes defined in ORS 466.005 shall be located, prepared, stored, maintained, collected, transported, and disposed in a manner acceptable to the Oregon Department of Environmental Quality.

b. Containers used to store cooking oils, grease or animal renderings for recycling or disposal shall not be located in the principal recyclable materials or solid waste storage areas. These materials shall be stored in a separate storage area designed for such purpose.

5. Screening and buffering.

a. Enclosures shall include a curbed landscape area at least three feet in width on the sides and rear. Landscaping shall include, at a minimum, a continuous hedge maintained at a height of 36 inches.

b. Placement of enclosures adjacent to residentially zoned property and along street frontages is strongly discouraged. They shall be located so as to conceal them from public view to the maximum extent possible.

c. All dumpsters and other trash containers shall be completely screened on all four sides with an enclosure that is comprised of a durable material such as masonry with a finish that is architecturally compatible with the project. Chain link fencing, with or without slats, will not be allowed.

6. Litter receptacles.

a. Location. Litter receptacles may not encroach upon the minimum required walkway widths.

b. Litter receptacles may not be located within public rights-of-way except as permitted through an agreement with the City in a manner acceptable to the City Attorney or their designee.

c. Number. The number and location of proposed litter receptacles shall be based on the type and size of the proposed uses. However, at a minimum, for non-residential uses, at least one external litter receptacle shall be provided for every 25 parking spaces for first 100 spaces, plus one receptacle for every additional 100 spaces. (Ord. 1547, 2007; Ord. 1604 § 52, 2011; Ord. 1613 § 12, 2013; amended during July 2014 supplement; Ord. 1623 § 6, 2014; Ord. 1635 § 26, 2014; Ord. 1636 § 37, 2014; Ord. 1647 § 6, 2016; Ord. 1650 § 1 (Exh. A), 2016; Ord. 1662 § 8, 2017; Ord. 1675 § 45, 2018)

Commentary:

The proposed Section 55.105, below, is a new section that would be added to the code. The amendments are shown in blue font, but also in underline/strikeout format so it is clear how the existing criteria in 55.100 would be modified to create the clear and objective path.

For the most part, these standards would apply only to multi-family development and the residential portion of mixed-use development. However, subsections A, B, C, and D would also apply to single-family detached, duplex, triplex, quadplex, and single-family attached dwellings in the Willamette Neighborhood Mixed Use Transitional Zone, because those standards are referenced in the Class I DR criteria.

All standards that would only apply to non-residential development are struck out.

55.105 APPROVAL STANDARDS – CLASS II DESIGN REVIEW – RESIDENTIAL/CLEAR AND OBJECTIVE

Applicability. Class II Design Review applications for the development of one or more new dwelling units, as applicable under CDC 55.020(B), are subject to the clear and objective approval standards in this section. Proposals where the applicant cannot or chooses not to meet the clear and objective approval standards in this section may apply under the discretionary Class II approval standards in CDC 55.100. The approval authority shall make findings with respect to the following criteria when approving, approving with conditions, or denying a Class II design review application for residential development:

A. The provisions of the following chapters shall be met:

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

2. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

3. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

4. Chapter 42 CDC, Clear Vision Areas.

5. Chapter 44 CDC, Fences.

6. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.

7. Chapter 48 CDC, Access, Egress and Circulation.

8. Chapter 52 CDC, Signs.

9. Chapter 54 CDC, Landscaping.

Commentary:

The standards below require preservation of heritage trees and “significant” trees and tree clusters. An important component in making the tree preservation standards in subsection (B)(1)-(2) clear and objective is to define the terms “significant tree” and “significant tree cluster.” Currently, it is up to the City Arborist to determine which trees and tree clusters are significant, but that is discretionary and not permitted in the clear and objective path. New definitions are proposed for significant tree and significant tree cluster, which include minimum trunk diameters. The term “heritage tree” is already defined in the Municipal Code.

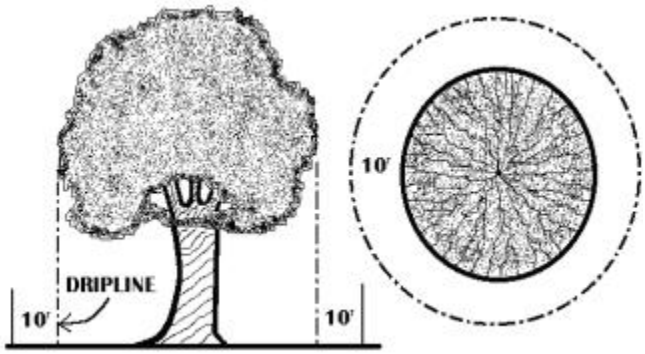
In addition, the current standards are rather wordy and confusing. In revising them to be clear and objective, the project team also clarified, simplified, and streamlined the regulations.

B. Relationship to the natural and physical environment.

1. The buildings and other site elements shall be designed and located so that all heritage trees, as defined in the municipal code, shall be saved. If requested by the applicant, d~~D~~iseased heritage trees, as determined by the City Arborist, may be removed~~ at their direction~~.

2. The following shall be protected pursuant to the criteria of subsections (B)(2)(a) through (f) of this section: a~~A~~ll heritage trees, as defined in the municipal code~~,~~; and all significant trees and significant tree clusters, as defined in CDC 2.030.~~ 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. The protected area for heritage trees, significant trees, and significant tree clusters is defined as the area within the dripline of the tree(s), plus an additional 10-foot measurement beyond the dripline.



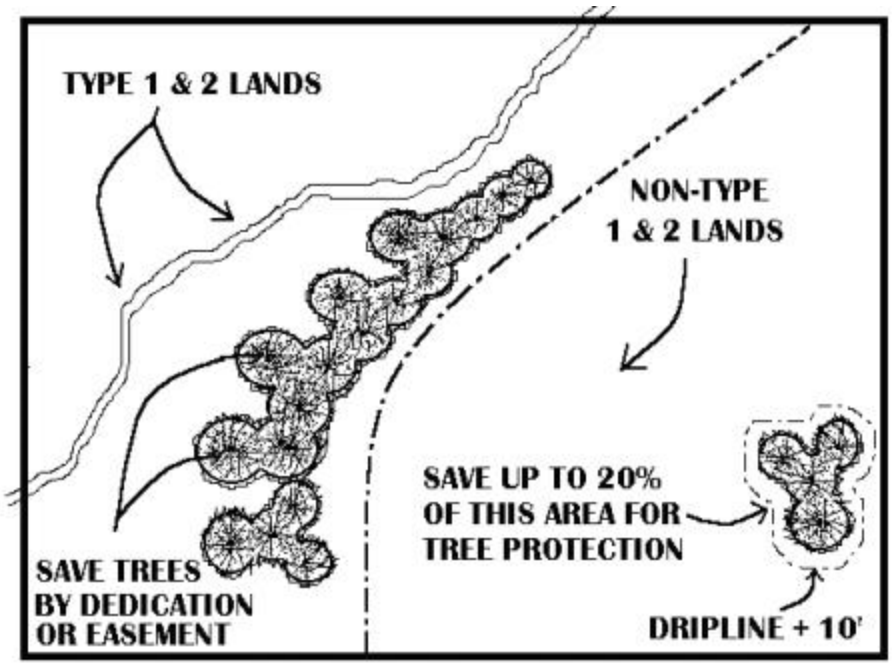
PROTECTED AREA = DRIPLINE + 10 FEET

b. Required protected areas include the following:

i. ~~Non-residential and residential projects o~~On Type I and II lands, protected areas are required for ~~shall protect~~ all heritage trees and all significant trees and significant tree clusters~~ by limiting development in the protected area~~. The protected area(s) shall also be preserved within a dedication or easement.~~The protected area includes the protected tree, its dripline, and an additional 10 feet beyond the dripline, as depicted in the figure below. 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 plus 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.~~

ii.~~b.~~ ~~Non-residential and residential projects o~~On non-Type I and II lands, ~~shall set aside up to 20 percent of the~~ protected areas are required for all heritage trees, significant trees, and significant tree clusters. ~~, plus any heritage trees.~~ However, in no case shall more than 20 percent of the non-Type I and II lands on the site be required to be set aside within protected areas. Where

the percentage of total protected area exceeds 20 percent of the non-Type I and II lands, and includes both heritage trees and significant trees or tree clusters, the priority shall be to first protect the heritage trees, followed by protecting the significant tree clusters, and significant 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 by limiting development in the protected areas. 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~~d), (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. Development within required protected areas is prohibited except as specified in subsections (B)(2)(d), (e), and (f) of this section.

~~c~~d. The following are exempt from the requirements of subsections (B)(2)(a) through (c) of this section: significant trees, significant tree clusters, or heritage trees that would prevent the extension of stubbed streets from abutting properties; and where a row of significant trees or tree clusters would block 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 lot or parcel ~~is blocked by a row or screen of significant trees or tree clusters~~.

~~d~~c. ~~For both non-residential and residential development, t~~The site layout shall ~~be allowed to~~ 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 protecting significant trees or significant tree clusters as specified ~~ion of stands or clusters of trees as defined~~ in subsection (B)(2) of this section.

~~e. For arterial and collector street projects, including Oregon Department of Transportation street improvements, the roads and graded areas shall avoid tree clusters where possible. Significant trees, tree clusters, and heritage tree loss may occur, however, but shall be minimized.~~

f. Where an applicant proposes grading within the required protected area for ~~If the protection of~~ significant tree(s) or significant 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 may request an exception to the tree protection requirements of this section in order to remove the significant tree(s) or tree cluster(s). The applicant shall~~will~~ submit evidence to the Planning Director that the grading is necessary for the development of street grades, per City construction codes, and that all reasonable alternative grading plans have been considered and cannot work. The applicant ~~will~~ shall 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.

~~3. The topography and natural drainage shall be preserved to the greatest degree possible.~~

4. The structures shall not be located in areas subject to slumping and sliding. The Comprehensive Plan Background Report's Hazard Map, or updated material as available and as deemed acceptable by the Planning Director, shall be the basis for preliminary determination.

Commentary:

Subsection (5), below, is already covered by the Building Code standards for building/fire separation.

~~5. There shall be adequate distance between on-site buildings and on-site and off-site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection.~~

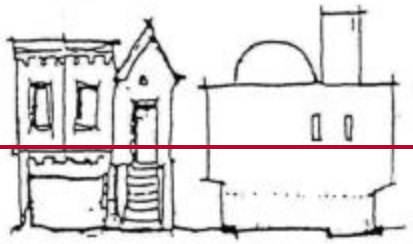
Commentary:

The architecture standards in subsection (B)(6) are mostly very discretionary. This subsection is proposed to be replaced by new subsections (C) Building Orientation and Entries and (D) Architecture.

~~6. Architecture.~~

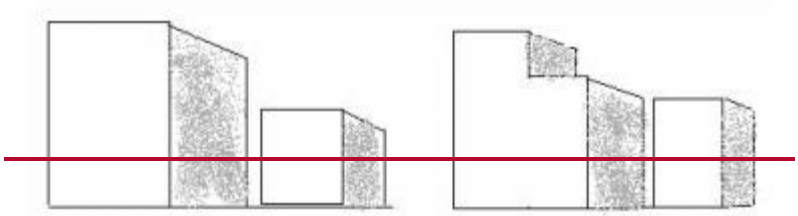
~~a. The proposed structure(s) scale shall be compatible with the existing structure(s) on site and on adjoining sites. Contextual design is required. Contextual design means respecting and incorporating prominent architectural styles, building lines, roof forms, rhythm of windows, building scale and massing of surrounding buildings in the proposed structure. The materials and colors shall be complementary to the surrounding buildings.~~

contextual design



contrasting design

~~b. While there has been discussion in Chapter 24 CDC about transition, it is appropriate that new buildings should architecturally transition in terms of bulk and mass to work with, or fit, adjacent existing buildings. This transition can be accomplished by selecting designs that "step down" or "step up" from small to big structures and vice versa (see figure below). Transitions may also take the form of carrying building patterns and lines (e.g., parapets, windows, etc.) from the existing building to the new one.~~



mass/bulk overwhelms smaller building

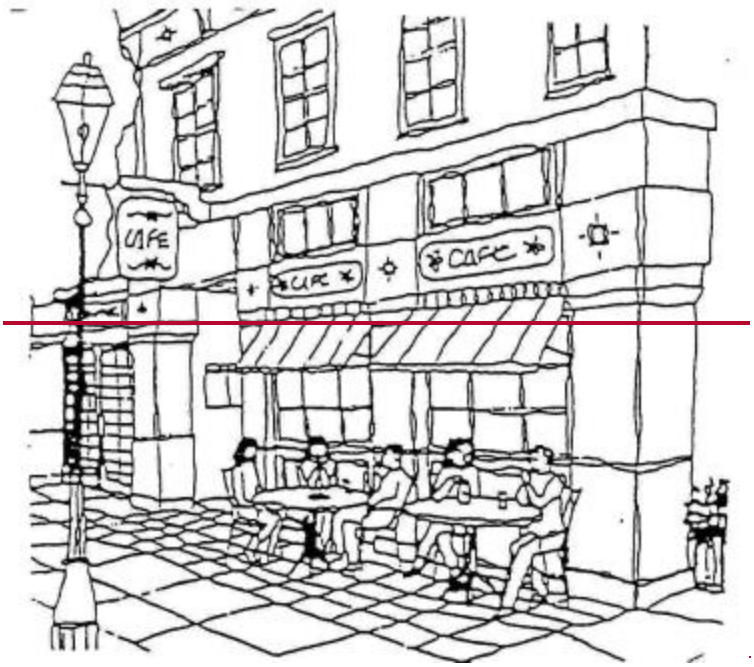
mass/bulk effectively transitions

~~c. Contrasting architecture shall only be permitted when the design is manifestly superior to adjacent architecture in terms of creativity, design, and workmanship, and/or it is adequately separated from other buildings by distance, screening, grade variations, or is part of a development site that is large enough to set its own style of architecture.~~

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

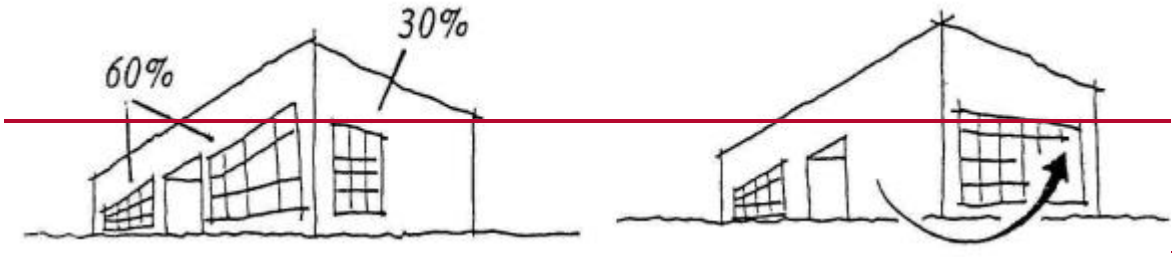
~~indentations, ledges, parapets, awnings, engaged columns, etc.) in the facades of buildings, both vertically and horizontally.~~

~~The human scale is enhanced by bringing the building and its main entrance up to the edge of the sidewalk. It creates a more dramatic and interesting streetscape and improves the "height and width" ratio referenced in this section.~~

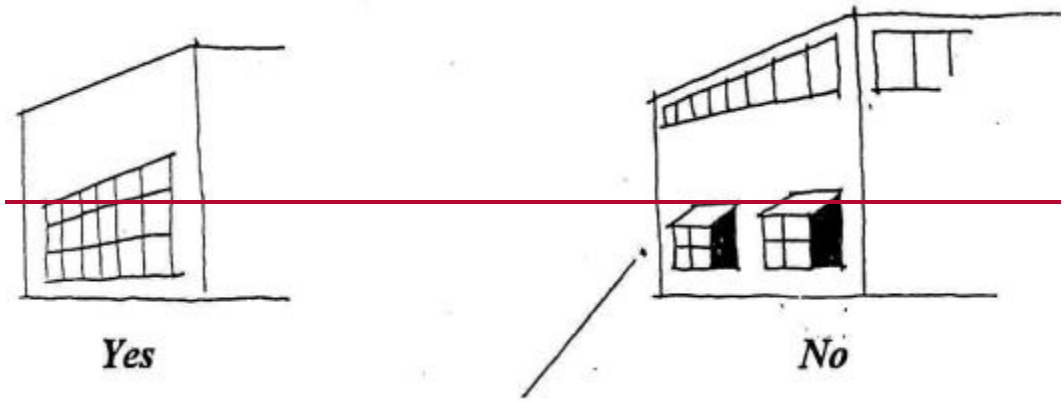


~~human scale is captured in this example~~

~~e. The main front elevation of commercial and office buildings shall provide at least 60 percent windows or transparency at the pedestrian level to create more interesting streetscape and window shopping opportunities. One side elevation shall provide at least 30 percent transparency. Any additional side or rear elevation, which is visible from a collector road or greater classification, shall also have at least 30 percent transparency. Transparency on other elevations is optional. The transparency is measured in lineal fashion. For example, a 100-foot-long building elevation shall have at least 60 feet (60 percent of 100 feet) in length of windows. The window height shall be, at minimum, three feet tall. The exception to transparency would be cases where demonstrated functional constraints or topography restrict that elevation from being used. When this exemption is applied to the main front elevation, the square footage of transparency that would ordinarily be required by the above formula shall be installed on the remaining elevations at pedestrian level in addition to any transparency required by a side elevation, and vice versa. The rear of the building is not required to include transparency. The transparency must be flush with the building elevation.~~



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



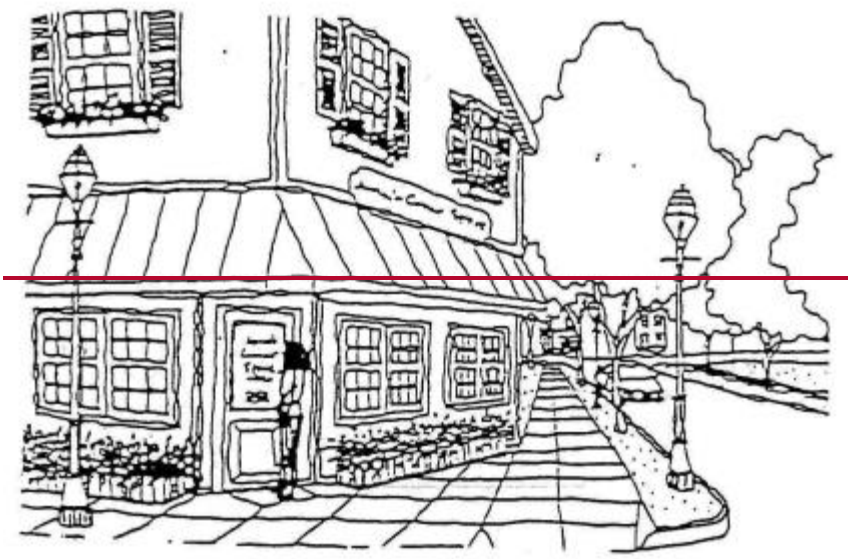
~~***(Windows not at eye level and/or not flush with building.)***~~

~~f. Variations in depth and roof line are encouraged for all elevations.~~

~~To vary the otherwise blank wall of most rear elevations, continuous flat elevations of over 100 feet in length should be avoided by indents or variations in the wall. The use of decorative brick, masonry, or stone insets and/or designs is encouraged. Another way to vary or soften this elevation is through terrain variations such as an undulating grass area with trees to provide vertical relief.~~

~~g. Consideration of the micro-climate (e.g., sensitivity to wind, sun angles, shade, etc.) shall be made for building users, pedestrians, and transit users, including features like awnings.~~

~~h. The vision statement identified a strong commitment to developing safe and attractive pedestrian environments with broad sidewalks, canopied with trees and awnings.~~



~~***trees, awnings, and building orientation enhance micro-climate***~~

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

Commentary:

As noted above, subsections (C) Building Orientation and Entries and (D) Architecture would entirely replace current subsection (B)(6).

The Building Orientation and Entries standards are intended to address the human scale requirements in the current criteria by emphasizing visibility of main pedestrian entrances, which contributes to a pedestrian-scaled and pedestrian-friendly environment.

Because these standards could apply to single-family dwellings, plexes, and multi-family, they are intended to work for most housing types.

C. Building Orientation and Entries. The following standards are intended to create and maintain street frontages that are attractive, create an environment that is conducive to walking, and provide natural surveillance of public spaces.

1. Main Entrance. At least one main entrance for each residential structure shall meet both a. and b, below.

a. The entry shall be no further than eight feet behind the longest street facing-wall of the building; and

b. The entry shall either face the street, be at an angle of no more than 45 degrees from the street, or open to a porch. If the entry opens to a porch, the porch shall meet all of the following standards:

i. Have a minimum area of 25 square feet, with a minimum depth of five feet;

ii. Have at least one porch entry facing the street; and

iii. Have a roof that is a maximum of 12 feet above the floor of the porch; and that covers at least 30 percent of the porch area.

2. Alternative for multi-family structures. As an alternative to subsection (6)(a), an entrance to a multi-family structure may face a courtyard if the courtyard-facing entrance is located within 60 feet of a street and the courtyard meets the following standards:

a. The courtyard must be at least 15 feet in width;

b. The courtyard must abut a street; and

c. The courtyard must be landscaped or hard-surfaced for use by pedestrians.

Commentary:

The proposed Architecture standards are intended to address the human scale, compatibility, transition, and articulation requirements in the current criteria. These standards apply measurable and objective standards for window coverage. They also use a menu-based approach for articulation and detailed design element standards, which offers flexibility to applicants by allowing them to select features from a list of clearly-defined options.

D. Architecture. The following standards are intended to promote building details in new residential construction that provide visual interest, contribute to a high-quality living environment for residents, give a sense of quality and permanence, and enhance compatibility with the surrounding community.

1. Windows. At least 15% of the area of each façade facing a street, and 20% of the ground floor facing a street, shall be glazing or entry doors with glazing insets.

a. Transparent windows allowing views from the dwelling to the street meet this standard. Up to 25% of the required area may also be met by privacy (translucent) windows, glass blocks, or entry doors with translucent glass.

b. Window area is considered the entire area within the outer window frame, including any interior window grid.

c. All of the window area of the street-facing wall(s) of an attached garage, and half of the total window area in the door(s) of an attached garage may be counted toward this standard.

d. Doors used to meet this standard contain glass and shall face the street or be at an angle of not more than 45 degrees from the street. Security viewing devices ("peepholes") do not by themselves meet this standard.

e. Door area is considered the portion of the door that moves. Door frames do not count toward this standard.

2. Articulation. All residential dwelling structures shall incorporate elements that break up all street-facing façades facing streets into smaller planes using four or more of the elements listed below. On corner or multi-frontage lots, four or more elements shall be provided on each street-facing façade. Architectural features that meet the standards in this Section include the following features:

a. A covered porch with a minimum depth of five feet (measured horizontally from the face of the main façade) and a minimum length of six feet;

b. A balcony at least four feet deep and eight feet wide, that is accessible from one interior room;

c. A bay window at least six feet wide, bumped out by at least two feet; and extending from the top of the foundation to the top of the main façade wall;

d. A recessed building entry at least two feet deep, as measured horizontally from the face of the main building façade, and at least five feet wide;

e. A section of the façade, at least six feet in width, that is either recessed or bumped out by at least two feet deep from the front wall plane;

f. An offset on the building face of at least 16 inches from one exterior wall to the other;

g. A gabled dormer at least four feet wide and integrated into the roof form;

h. Roof line offset of at least two feet from the top surface of one roof to the top surface of the other; or

i. Other similar architectural features proposed by the applicant if approved by the Review Authority through discretionary review.

3. Detailed Design Elements. All residential dwelling structures shall provide at least nine of the following elements, on any street-facing façade. On all other façades, at least four of the following elements shall be provided:

a. A recessed building entry at least two feet deep, as measured horizontally from the face of the main building façade, and at least five feet wide;

b. Roof eaves on all elevations that project at least 12 inches from the intersection of the roof and the exterior walls;

c. A minimum of three gable end brackets (either triangular knee braces or rake brackets), spaced a maximum of 15 feet on center;

d. Roof line offset of at least two feet from the top surface of one roof to the top surface of the other;

e. Hip or gambrel roof design with a minimum pitch of 6/12;

f. Siding in gables which differs from the primary siding type (e.g., shingle siding in gable when primary siding is horizontal lap);

g. Tile roofs;

h. Fiber-cement horizontal lap siding between three and seven inches wide (the visible portion once installed);

i. Exterior finish materials covering at least 40% of the façade from one or more of the following: brick, fiber-cement shingles, stone, or stucco;

j. Window trim around all windows with a minimum width of three inches and a minimum thickness of 5/8 inches;

k. On any façade not facing a street, minimum 15% of the area in glazing or entry doors, consistent with CDC 55.105(D)(1)(a) through (e);

l. Recesses in all windows on a façade of at least three inches as measured horizontally from the face of the façade;

m. Mullions or window grids in all windows on a façade;

n. Attached garage width, as measured on the inside of the garage door frame, of 35% or less of the width of the street-facing façade;

o. Horizontal band or barge boards;

p. Color palette including four colors. Colors may be paint or intrinsic to the material (e.g., wood, brick, or stone). One main color shall cover at least 40% of the street-facing façade and each of the other colors shall be used on a minimum of four square feet; and/or

q. Other similar architectural features proposed by the applicant if approved by the Review Authority through discretionary review.

Commentary:

The proposed Transition Stepback standards are intended to address the compatibility and transition requirements in current subsections (B)(6)(a) and (b). These standards would apply to multi-family development when it is adjacent to single-family zones or existing homes. The standards require a stepback—i.e., increased setback from the property line—for the portions of buildings above 30 ft in height. This would limit building bulk adjacent to smaller-scale development and would help promote compatibility of development.

8. Transition Stepbacks. The following standards apply to multi-family development and are intended to create transitions with nearby, lower-density or smaller-scale residential development, in order to enhance compatibility of scale and to reduce the impacts of multi-family development on lower-density development. This standard applies to multi-family buildings that exceed 30 feet, where an abutting lot meets criteria a. or b. below, or both. In such cases, the building on the subject site shall meet the standard in subsection c.

a. The abutting lot is in the R-40, R-20, R-15, R-10, R-7, R-5, R-4.5 zoning district.

b. The abutting lot has a pre-existing single-family detached home and is in a zoning district other than those listed in (a). For the purposes of this section a "pre-existing single-family detached home" is one constructed prior to [ordinance adoption date].

c. The subject building shall be designed to "stepback" the building height along the property line shared by the abutting lot that meets criteria a. or b. above. The required height stepback shall be at least one foot for every one foot increase in height above 30 feet.

For example, for a building with a total height of 40 feet, the height shall be limited to 30 feet at the setback line. The height may then increase by one foot for every foot behind the setback line, and reach the total height of 40 feet at a distance of at least 10 feet behind the setback line.

Commentary:

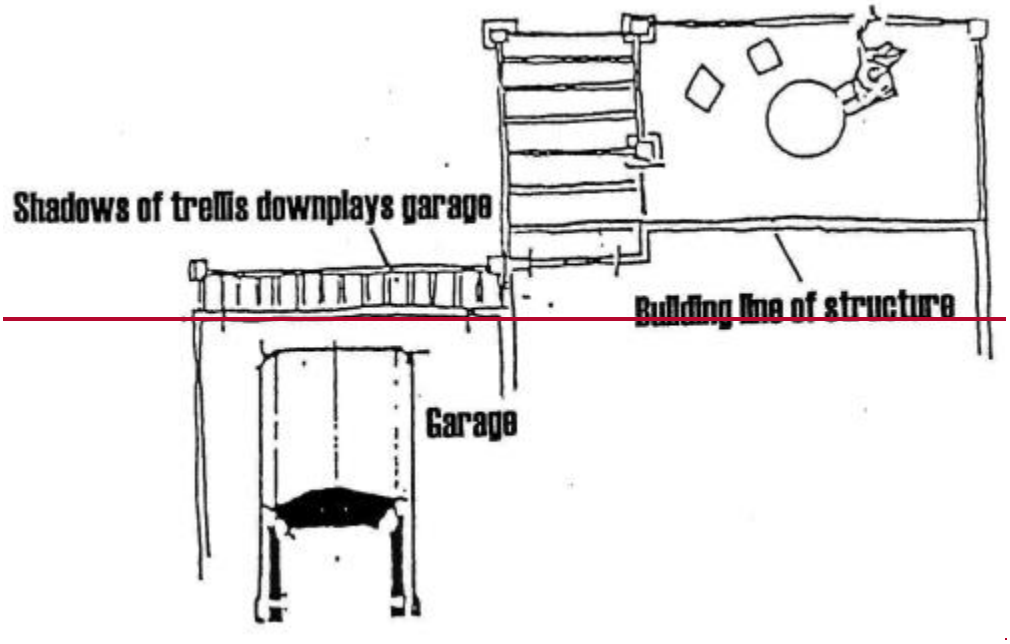
The remainder of the approval criteria apply only to Class II DR (not Class I); therefore, they will apply only to multi-family development and the residential portion of mixed-use.

E.~~7.~~ ~~Transportation~~Vehicle Parking. The automobile shall be shifted from a dominant role, relative to other modes of transportation, by the following means:

~~a. Commercial and office development shall be oriented to the street. At least one public entrance shall be located facing an arterial street; or, if the project does not front on an arterial, facing a collector street; or, if the project does not front on a collector, facing the local street with highest traffic levels. Parking lots shall be placed behind or to the side of commercial and office development. When a large and/or multi-building development is occurring on a large undeveloped tract (three plus acres), it is acceptable to focus internally; however, at least 20 percent of the main adjacent right-of-way shall have buildings contiguous to it unless waived per subsection (B)(7)(c) of this section. These buildings shall be oriented to the adjacent street and include pedestrian-oriented transparencies on those elevations.~~

~~For individual buildings on smaller individual lots, at least 30 lineal feet or 50 percent of the building must be adjacent to the right-of-way unless waived per subsection (B)(7)(c) of this section. The elevations oriented to the right-of-way must incorporate pedestrian-oriented transparency.~~

~~b. Multi-family projects shall be required to keep the parking at the side or rear of the buildings or behind the building line of the structure as it would appear from the right-of-way inside the multi-family project. For any garage which is located behind the building line of the structure, but still facing the front of the structure, architectural features such as patios, patio walls, trellis, porch roofs, overhangs, pergolas, etc., shall be used to downplay the visual impact of the garage, and to emphasize the rest of the house and front entry.~~



~~The parking may be positioned inside small courtyard areas around which the units are built. These courtyard spaces encourage socialization, defensible space, and can provide a central location for landscaping, particularly trees, which can provide an effective canopy and softening effect on the courtyard in only a few years. Vehicular access and driveways through these courtyard areas is permitted.~~

Commentary:

The current standards for multi-family development in subsection (B)(7)(b) require parking to be to the side or rear of buildings and require garages to be "visually downplayed." The proposed standards below define the parking location requirements in a clear and objective manner and also set a limit on the amount of site frontage that parking and vehicle use areas and garages can occupy (50%).

1. Limitation on Parking Frontage for Multi-Family Developments.

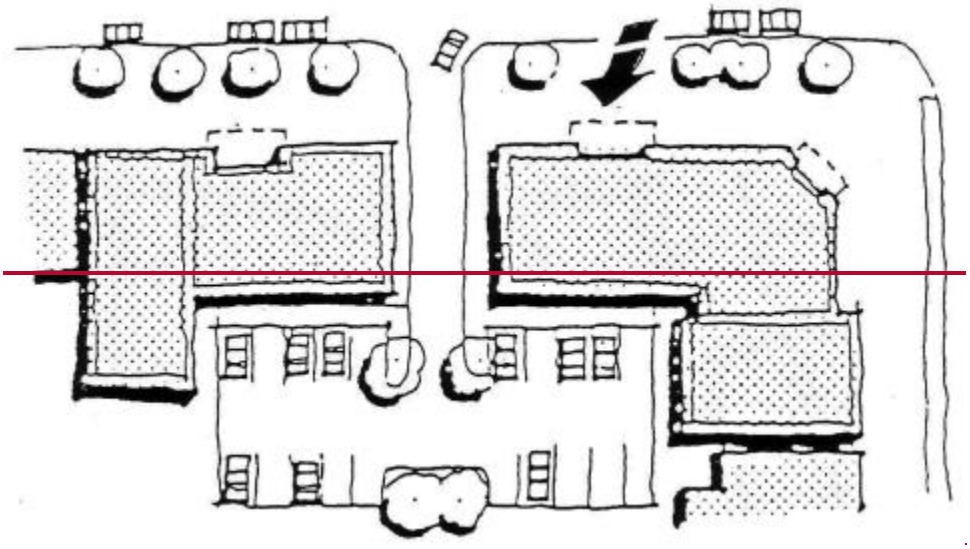
a. Parking and vehicle use areas and garages adjacent to any public or private street frontage, except alleys, shall extend across no more than 50 percent of the street frontage.

b. No parking spaces, with the exception of underground parking, shall be placed within any required front yard area.

c. Parking areas shall not be located between buildings and a public or private street, except alleys.

~~e. Commercial, office, and multi-family projects shall be built as close to the adjacent main right-of-way as practical to facilitate safe pedestrian and transit access. Reduced frontages by buildings on public rights-of-way may be allowed due to extreme topographic (e.g., slope, creek, wetlands, etc.) conditions or compelling functional limitations, not just inconveniences or design challenges.~~

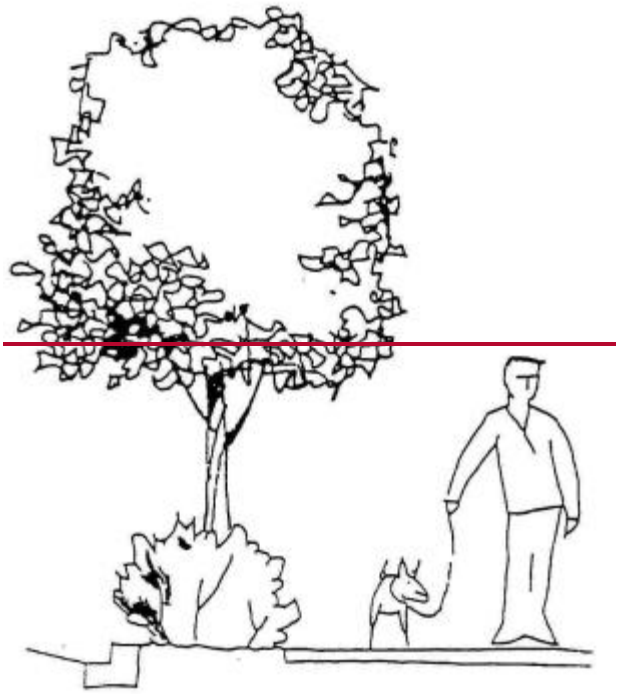
~~***entrance from right-of-way***~~



Commentary:

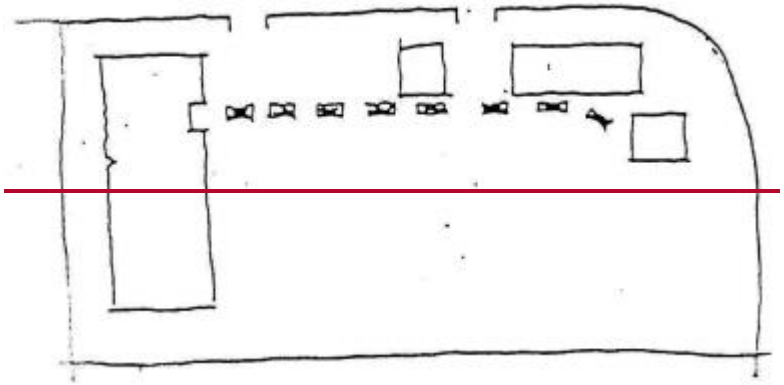
The current standards for pedestrian paths in subsection (B)(7)(d) and (e), below, require "direct routes" that are "clearly defined;" these terms are subjective. The proposed new Pedestrian Access and Circulation standards in subsection (F) would define specific standards to ensure pathways are clearly defined, safe, and accessible. The standards also point to CDC 48.080, which already requires 6-foot minimum pathways for multi-family development connecting specific areas on a site.

~~d. Accessways, parking lots, and internal driveways shall accommodate pedestrian circulation and access by specially textured, colored, or clearly defined footpaths at least six feet wide. Paths shall be eight feet wide when abutting parking areas or travel lanes. Paths shall be separated from parking or travel lanes by either landscaping, planters, curbs, bollards, or raised surfaces. Sidewalks in front of storefronts on the arterials and main store entrances on the arterials identified in CDC 85.200(A)(3) shall be 12 feet wide to accommodate pedestrians, sidewalk sales, sidewalk cafes, etc. Sidewalks in front of storefronts and main store entrances in commercial/OBC zone development on local streets and collectors shall be eight feet wide.~~



~~*landscaping*~~

~~e. Paths shall provide direct routes that pedestrians will use between buildings, adjacent rights-of-way, and adjacent commercial developments. They shall be clearly identified. They shall be laid out to attract use and to discourage people from cutting through parking lots and impacting environmentally sensitive areas.~~



~~*direct pedestrian route required (-)*~~

F. Pedestrian Access and Circulation. The following standards are intended to ensure that pedestrian circulation systems for multi-family development are designed to provide clear, identifiable, safe, and convenient connections within the development and to adjacent uses and public streets/sidewalks

1. Residential developments shall meet the pedestrian circulation standards in CDC 48.080(A).

2. Except as required for crosswalks, per subsection (F)(4), where a pedestrian pathway abuts a vehicle circulation area, it shall be physically separated by a curb that is raised at least six inches or by bollards.

3. All pedestrian pathways shall comply with the requirements of the Americans with Disabilities Act.

4. In order to provide safe crossings of streets, driveways, and parking areas, crossings shall be clearly marked with either contrasting paving materials (such as pavers, light-color concrete inlay between asphalt, or similar contrasting material) or reflective striping that emphasizes the crossing under low light and inclement weather conditions.

5. Pedestrian connections shall be provided between buildings and between the development and adjacent rights-of-way, transit stops, and commercial developments. At least one connection shall be made to each adjacent street and sidewalk for every 200 linear feet of street frontage. Sites with less than 200 linear feet of street frontage shall provide at least one connection to the street and/or sidewalk.

Commentary:

The building entrance requirements in subsection (B)(7)(f) are captured in the proposed Building Orientation and Entrance standards above—subsection (C).

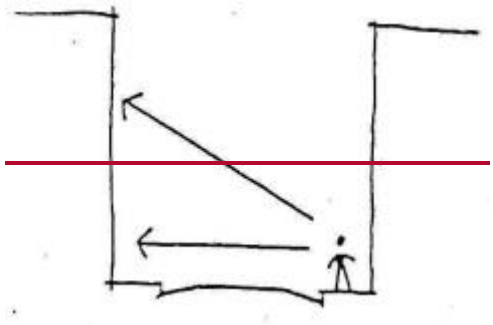
The transit connection requirement in subsection (B)(7)(g) is captured in the requirement for pedestrian connections to nearby transit stops above—subsection (F)(5).

The standard related to heigh to width ratio along streets is geared more toward commercial development; therefore, it has been struck out.

~~f. At least one entrance to the building shall be on the main street, or as close as possible to the main street. The entrance shall be designed to identify itself as a main point of ingress/egress.~~

~~g. Where transit service exists, or is expected to exist, there shall be a main entrance within a safe and reasonable distance of the transit stop. A pathway shall be provided to facilitate a direct connection.~~

~~h. Projects shall bring at least part of the project adjacent to or near the main street right-of-way in order to enhance the height-to-width ratio along that particular street. (The "height-to-width ratio" is an architectural term that emphasizes height or vertical dimension of buildings adjacent to streets. The higher and closer the building is, and the narrower the width of the street, the more attractive and intimate the streetscape becomes.) For every one foot in street width, the adjacent building ideally should be one to two feet higher. This ratio is considered ideal in framing and defining the streetscape.~~



~~*1:1 height to width ratio is ideal*~~

~~**(example only)**~~

~~i. These architectural standards shall apply to public facilities such as reservoirs, water towers, treatment plants, fire stations, pump stations, power transmission facilities, etc. It is recognized that many of these facilities, due to their functional requirements, cannot readily be configured to meet these architectural standards. However, attempts shall be made to make the design sympathetic to surrounding properties by landscaping, setbacks, buffers, and all reasonable architectural means.~~

~~j. Parking spaces at trailheads shall be located so as to preserve the view of, and access to, the trailhead entrance from the roadway. The entrance apron to the trailhead shall be marked: "No Parking," and include design features to foster trail recognition.~~

Commentary:

The current compatibility/buffering/screening requirements below are highly discretionary. The proposed standards in subsection (G)(1) would define specific buffer standards where multi-family abuts lower-intensity development. The proposed screening standards in (G)(2) establish specific requirements for screening of parking, loading, and service areas.

G~~C~~. Compatibility between adjoining uses, buffering, and screening.

~~1. In addition to the compatibility requirements contained in Chapter 24 CDC, buffering shall be provided between different types of land uses; for example, buffering between single-family homes and apartment blocks. However, no buffering is required between single-family homes and duplexes or single-family attached units. The following factors shall be considered in determining the adequacy of the type and extent of the buffer:~~

~~a. The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier.~~

~~b. The size of the buffer required to achieve the purpose in terms of width and height.~~

~~c. The direction(s) from which buffering is needed.~~

~~d. The required density of the buffering.~~

~~e. Whether the viewer is stationary or mobile.~~

1. Buffering. Where a multi-family development abuts a non-residential use or a property zoned R-40, R-20, R-15, R-10, R-7, R-5, R-4.5, a landscape buffer shall be provided in accordance with the following standards:

a. The buffer shall have a minimum depth of 10 feet and shall extend for the length of the property line of the abutting use or uses.

b. The buffer area may only be occupied by utilities, screening, sidewalks, bikeways, landscaping, and approved vegetated post-construction stormwater quality facilities. No buildings, vehicular access ways or parking areas are allowed in a buffer area.

c. The minimum improvements within a buffer area shall consist of the following:

i. At least one row of trees. These trees will be not less than 10 feet high at the time of planting for deciduous trees and spaced not more than 30 feet apart and five feet high at the time of planting for evergreen trees and spaced not more than 15 feet apart. This requirement may be waived by the Director when it can be demonstrated that such trees would conflict with other purposes of this Code (e.g., solar access).

ii. At least 5 five-gallon shrubs or 10 one-gallon shrubs for each 1,000 square feet of required buffer area.

iii. The remaining area treated with attractive ground cover (e.g., lawn, bark, rock, ivy, evergreen shrubs).

2. Screening. On-site screening from view from adjoining properties of ~~such things as~~ parking, loading, and service areas for multi-family development~~, storage areas, and parking lots~~ shall be provided in accordance with the following standards: ~~and the following factors will be considered in determining the adequacy of the type and extent of the screening:~~

a. A landscape buffer shall be provided that meets the standards in subsection (G)(1) of this section.

b. In addition, one of the following types of screening shall be provided:

i. One row of evergreen shrubs that will grow to form a continuous hedge at least four feet tall within two years of planting, or

ii. A fence or masonry wall at least five feet tall constructed to provide a uniform sight-obscuring screen, or

iii. An earth berm combined with evergreen plantings or a fence that forms a sight and noise buffer at least six feet tall within two years of installation.

~~a. What needs to be screened?~~

~~b. The direction from which it is needed.~~

~~c. How dense the screen needs to be.~~

~~d. Whether the viewer is stationary or mobile.~~

~~e. Whether the screening needs to be year-round.~~

3. Rooftop air cooling and heating systems and other mechanical equipment shall be screened from view from adjoining properties.

Commentary:

The private outdoor area requirement under current subsection (D)(1) is redundant to subsection (E); therefore, it has been struck out.

The standards limiting noise exposure in (D)(2) has been reworked to be more clear and objective.

The other standards in subsection (D) are more applicable to non-residential uses and have been struck out.

H~~D~~. ~~Privacy and n~~Noise.

~~1. Structures which include residential dwelling units shall provide private outdoor areas for each ground-floor unit which is screened from view from adjoining units.~~

~~2~~1. ~~Residential dwelling units shall be placed on the site in areas having minimal noise exposure to the extent possible. Natural-appearing sound barriers shall be used to lessen noise impacts w~~Where noise levels produced off-site exceed the noise standards contained in West Linn Municipal Code Section 5.487, residential dwelling units shall be placed on the site in areas having minimal noise exposure or sound barriers shall be used to lessen noise impacts.

~~3. Structures or on-site activity areas which generate noise, lights, or glare shall be buffered from adjoining residential uses in accordance with the standards in subsection C of this section where applicable.~~

~~4. Businesses or activities that can reasonably be expected to generate noise in excess of the noise standards contained in West Linn Municipal Code Section 5.487 shall undertake and submit appropriate noise studies and mitigate as necessary to comply with the code. (See CDC 55.110(B)(11) and 55.120(M).)~~

~~If the decision-making authority reasonably believes a proposed use may generate noise exceeding the standards specified in the municipal code, then the authority may require the applicant to supply professional noise studies from time to time during the user's first year of operation to monitor compliance with City standards and permit requirements.~~

Commentary:

The private outdoor area standards below have been reworked to be clear and objective and to remove discretionary language.

I~~E~~. Private outdoor area. This section only applies to multi-family projects.

1~~. In addition to the requirements of residential living,~~ Each dwelling unit shall have an outdoor private area (e.g., patio, terrace, porch, or balcony) of not less than 48 square feet in area;

~~2. The outdoor space shall be oriented towards the sun where possible; and~~

3. The private outdoor area shall be screened from view from adjacent units or oriented to avoid direct lines of sight into adjacent units~~designed to provide privacy for the users of the space~~.

4. Except for front porches, private outdoor areas for at-grade dwellings shall be screened from view from public streets and shared outdoor areas.

~~4. Where balconies are added to units, the balconies shall not be less than 48 square feet, if they are intended to be counted as private outdoor areas.~~

Commentary:

The shared outdoor recreation area standards are mostly clear and objective. However, a definition of "shared outdoor recreation areas" is added; discretionary language in current subsection (F)(2)(d) has been removed; and the prohibition on "small, marginal, and incidental lots" is already captured by the minimum area and accessibility standards in (F)(2).

J~~F~~. Shared outdoor recreation areas. This section only applies to multi-family projects. ~~and projects with 10 or more duplexes or single-family attached dwellings on lots under 4,000 square feet. In those cases, shared outdoor recreation areas are calculated on the duplexes or single-family attached dwellings only. It also applies to qualifying PUDs under the provisions of CDC 24.170.~~

1. Shared outdoor recreation areas are open spaces that provide recreational and social opportunities, such as play fields, improved playgrounds, swimming pools, tennis courts, community gardens, plazas, picnic areas, paths, and passive seating areas. Such areas must be improved and maintained for their intended use.

2~~1~~. In addition to the requirements of subsection E of this section, usable outdoor recreation space shall be provided in residential developments for the shared or common use of all the residents in the following amounts:

a. Studio up to and including two-bedroom units: 200 square feet per unit.

b. Three or more bedroom units: 300 square feet per unit.

3~~2~~. The required recreation space may be provided as follows:

a. It may be all outdoor space; or

b. It may be part outdoor space and part indoor space; for example, an outdoor tennis court and indoor recreation room; and

c. Where some or all of the required recreation area is indoor, such as an indoor recreation room, then these indoor areas must be readily accessible to all residents of the development subject to clearly posted restrictions as to hours of operation and such regulations necessary for the safety of minors.

d. ~~In considering the requirements of this subsection F, the emphasis shall be on usable recreation space.~~ No single area of outdoor recreational space shall encompass an area of less than 250 square feet. All common outdoor recreational space shall be clearly delineated and readily identifiable as such. ~~Small, marginal, and incidental lots or parcels of land are not usable recreation spaces. The location of outdoor recreation space should be integral to the overall design concept of the site and be free of hazards or constraints that would interfere with active recreation.~~

4~~3~~. All~~The~~ shared outdoor recreational spaces shall be ~~readily observable~~ visible from the windows of at least 20 percent of the dwelling units, or two dwelling units, whichever is greater, to facilitate crime prevention and safety.

K~~G~~. Demarcation of public, semi-public, and private spaces. The structures and site improvements shall be designed so that public areas such as streets or public gathering places, semi-public areas, and private outdoor areas are clearly defined in order to establish persons having a right to be in the space, to provide for crime prevention, and to establish maintenance responsibility. These areas ~~may~~ shall be defined by one or more of the following:

1. A deck, patio, fence, low wall, hedge, or draping vine;

2. A trellis or arbor;

3. A change in level;

4. A change in the texture of the path material;

5. Sign; or

6. Landscaping.

Use of gates to demarcate the boundary between a public street and a private access driveway is prohibited.

L~~H~~. Public transit.

1. Provisions for public transit may be required where the site abuts an existing ~~or planned~~ public transit route. The required facilities shall be based on the following:

a. The location of other transit facilities in the area.

b. The size and type of the proposed development.

c. The rough proportionality between the impacts from the development and the required facility.

2. The required facilities shall be limited to such facilities as the following:

a. A waiting shelter with a bench surrounded by a three-sided covered structure, with transparency to allow easy surveillance of approaching buses.

b. A turnout area for loading and unloading designed per regional transit agency standards.

c. Hard-surface paths connecting the development to the waiting and boarding areas.

d. Regional transit agency standards shall, however, prevail if they supersede these standards.

3. ~~The transit stop shall be located as close as possible to the main entrance to the shopping center, public or office building, or multi-family project.~~ The primary building entrance shall not be more than 200 feet from the transit stop with a ~~clearly identified~~ pedestrian link in compliance with subsection (F) of this section.

4. ~~All commercial business centers (over three acres) and m~~Multi-family projects (over 40 units) may be required to provide for the relocation of transit stops to the front of the site if the existing stop is within 200 to 400 yards of the site and the exaction is roughly proportional to the impact of the development. The ~~commercial or~~ multi-family project may be required to provide new facilities in those cases where the nearest stop is over 400 yards away. If a new or relocated transit stop is to be required, this information shall be provided to the applicant at the pre-application conference, or before the application is deemed complete. The transit stop shall be built per subsection (~~H~~L)(2) of this section.

Commentary:

The requirements for Streets, below, are highly discretionary. Many of these provisions can be removed and replaced by references to the Public Works Design Standards, the TSP, and to the Traffic Impact Analysis (TIA) requirements in Chapter 85. The existing TIA requirements are also discretionary, but the team is currently working on an updated clear and objective path for those as well. We will review Chapter 85 with the Working Group at a subsequent meeting.

NOTE: Similar to Section 55.100, above, language has been added to elaborate on the "adequate public facilities" requirements below. The proposed language in criterion (M)(1)(a) was removed from the definition of "adequate public facilities" in CDC Chapter 2, in order to avoid including standards in a definition (which can often be overlooked). The requirement is more useful as an approval criterion for land use applications (Design Review, Conditional Use, and Land Division), rather than in a definition.

M~~I~~. Public facilities. An application may only be approved if adequate public facilities, as defined in CDC 2.030, will be available to provide service to the property prior to occupancy.

1. Streets.

a. In situations where the level-of-service or volume-to-capacity performance standard for an affected City or State roadway is currently failing or projected to fail to meet the standard, and an improvement project is not programmed, the development shall avoid further degradation of the affected transportation facility. Mitigation must be provided to bring the facility performance standard to existing conditions at the time of occupancy.

b. Sufficient right-of-way and slope easement shall be dedicated to accommodate all abutting streets to be improved to ~~the~~ City~~'s Improvement S~~ standards~~ and Specifications~~, in accordance with the West Linn Public Works Design Standards.

~~The City Engineer shall determine the appropriate level of street and traffic control improvements to be required, including any off-site street and traffic control improvements, based upon the transportation analysis submitted. The City Engineer's determination of developer obligation, the extent of road improvement and City's share, if any, of improvements and the timing of improvements shall be made based upon the City's systems development charge ordinance and capital improvement program, and the rough proportionality between the impact of the development and the street improvements~~.

~~In determining the appropriate sizing of the street in commercial, office, multi-family, and public settings, the street should be the minimum necessary to accommodate anticipated traffic load and needs and should provide substantial accommodations for pedestrians and bicyclists. Road and driveway alignment should consider and mitigate impacts on adjacent properties and in neighborhoods in terms of increased traffic loads, noise, vibrations, and glare.~~

c. The realignment or redesign of roads shall be consistent with West Linn Public Works Design Standards ~~consider how the proposal meets accepted engineering standards, enhances public safety, and favorably relates to adjacent lands and land uses. Consideration should also be given to selecting an alignment or design that minimizes or avoids hazard areas and loss of significant natural features (drainageways, wetlands, heavily forested areas, etc.) unless site mitigation can clearly produce a superior landscape in terms of shape, grades, and reforestation, and is fully~~ and shall be consistent with applicable code restrictions regarding resource areas, pursuant to CDC Chapter 27 Flood Management Areas, Chapter 28 Willamette and Tualatin River Protection, and Chapter 32 Water Resource Area Protection.

d. Streets shall be installed per the standards in ~~Chapter 85~~ CDC 85.200(A)~~standards. The City Engineer has the authority to require that street widths match adjacent street widths.~~ Sidewalks shall be installed per ~~CDC 85.200(A)(3) for commercial and office projects, and~~ CDC 85.200(A)(16) and 92.010(H) ~~for residential projects~~, and applicable provisions of this chapter.

e. Where streets bisect or traverse water resource areas (WRAs) the street width shall be reduced to the ~~appropriate~~ "constrained" cross-section width indicated in the TSP for the applicable street type. ~~or alternate configurations which are appropriate to site conditions, minimize WRA disturbance or are consistent with an adopted transportation system plan.~~ The street design shall also be consistent with habitat friendly provisions of CDC 32.060(I).

f. ~~Based upon the City Manager's or Manager's designee's determination,~~ If a Traffic Impact Analysis is required by CDC 85.170(B)(2)(d), the applicant shall construct or cause to be constructed~~, or contribute a proportionate share of the costs, for all~~ any ~~necessary~~ off-site improvements identified in the Transportation System Plan that are necessary to mitigate the impacts from the proposed development as identified by the ~~transportation~~ analysis ~~commissioned to address CDC 55.125 that are required to mitigate impacts from the proposed development~~. In no case shall an applicant be required to contribute more than their proportionate share of the costs. Proportionate share of the costs is established by the proportionality analysis required as part of the Traffic Impact Analysis.~~shall be determined by the City Manager or Manager's designee, who shall assume that the proposed development provides improvements in rough proportion to identified impacts of the development.~~

2. Storm detention and treatment and geologic hazards. Per the submittals required by CDC 55.130 and 92.010(E), all proposed storm detention and treatment facilities must comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards,

~~there will be no adverse off-site impacts caused by the development (including impacts from increased intensity of runoff downstream or constrictions causing ponding upstream),~~ and the applicant must provide sufficient factual data to support the conclusions of the submitted plan.

Per the submittals required by CDC 55.130(E), the applicant must demonstrate that the proposed methods of rendering known or potential hazard sites safe for development, including proposed geotechnical remediation, are feasible and adequate to prevent landslides or other damage to property and safety. The review authority may impose conditions, including limits on type or intensity of land use, which it determines are necessary to mitigate known risks of landslides or property damage.

3. Municipal water. A registered civil engineer shall prepare a plan for the provision of water which demonstrates to the City Engineer's satisfaction the availability of sufficient volume, capacity, and pressure to serve the proposed development's domestic, commercial, and industrial fire flows. All plans will then be reviewed by the City Engineer.

4. Sanitary sewers. A registered civil engineer shall prepare a sewerage collection system plan which demonstrates sufficient on-site capacity to serve the proposed development. The City Engineer shall determine whether the existing City system has sufficient capacity to serve the development.

5. Solid waste and recycling storage areas. Appropriately sized and located ~~s~~Solid waste and recycling storage areas shall be provided that are sized and located in accordance with West Linn Municipal Code Section 4.500 and must provide adequate capacity to accommodate the minimum service volumes identified in~~.~~ Metro Code Section 5.15 - 2040~~standards shall be used~~.

Commentary:

The proposed revisions to the crime prevention and safety standards include the following:

- Define which areas of the site must be visible from dwelling units, and from how many units.
- Establish minimum lighting using measurable standards (foot-candles).
- Establish clear and objective requirements for shielding and light trespass to prevent glare onto adjacent properties.

N~~J~~. Crime prevention and safety/defensible space.

1. Windows shall be located so that all shared or common use areas, including vehicle parking areas, bicycle parking, shared outdoor areas, and pedestrian paths, are visible from at least 20 percent of the dwelling units, or two dwelling units, whichever is greater ~~vulnerable to crime can be surveyed by the occupants~~.

2. ~~Interior laundry and service areas shall be located in a way that they can be observed by other~~s.

3. Mailboxes, recycling, and solid waste facilities shall be located in lighted areas having vehicular or pedestrian traffic.

4. ~~The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime.~~Shared or common use areas, including building entries, vehicle parking areas, bicycle parking, shared outdoor areas, and pedestrian paths, shall be lighted to the following minimum levels of foot-candles to enhance safety and allow use at night:

a. Building entries: minimum 3 foot-candles.

a. Pedestrian paths: minimum 2 foot-candles.

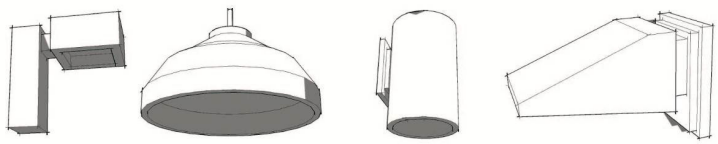
b. Required bicycle parking: minimum 3 foot-candles.

c. Vehicle parking: minimum 2 foot-candles.

5. Light fixtures shall also be provided in ~~areas having heavy pedestrian or vehicular traffic and in~~ potentially dangerous areas such as parking lots, stairs, ramps, and abrupt grade changes.

6. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person. All ~~commercial, industrial,~~ residential~~, and public facility~~ projects undergoing design review shall ~~use low or high pressure sodium bulbs and be able to demonstrate effective shielding so that the light is directed downwards rather than omni-directional. Omni-directional lights of an ornamental nature may be used in general commercial districts only.~~meet the following shielding and light trespass standards:

a. Shielding. Any light source or lamp that emits more than 900 lumens (15 watt fluorescent/LED or 60 watt incandescent) shall be concealed or shielded with an Illumination Engineering Society of North America (IESNA) full cut-off style fixture with an angle not exceeding 90 degrees to minimize the potential for glare and unnecessary diffusion on adjacent property. Examples of shielded light fixtures are shown below.



Examples of shielded light fixtures

b. Light Trespass. Maximum lighting levels at property lines shall not increase lighting levels more than 1.75 footcandles 10 feet beyond the property line.

~~7. Lines of sight shall be reasonably established so that the development site is visible to police and residents.~~

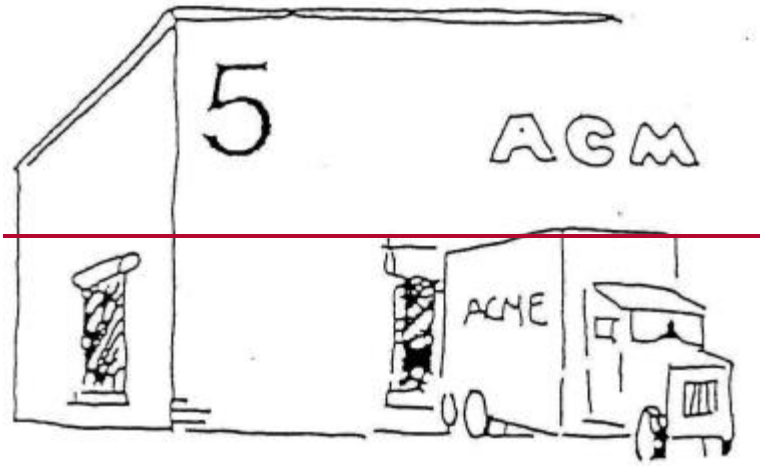
~~8. Security fences for utilities (e.g., power transformers, pump stations, pipeline control equipment, etc.) or wireless communication facilities may be up to eight feet tall in order to protect public safety. No variances are required regardless of location.~~

O~~K~~. Provisions for persons with disabilities.

1. The needs of a person with a disability shall be provided for. Accessible routes shall be provided between all buildings and accessible site facilities. The accessible route shall be the most practical direct route between accessible building entries, accessible site facilities, and the accessible entry to the site. An accessible route shall connect to the public right-of-way and to at least one on-site or adjacent transit stop (if the area is served by transit). All facilities shall conform to, or exceed, the Americans with Disabilities Act (ADA) standards, including those included in the Uniform Building Code.

P~~L~~. Signs.

1. Based on considerations of crime prevention and the needs of emergency vehicles, a system of signs for identifying the location of each residential unit~~, store, or industry~~ shall be established.



~~***buildings shall be numbered for emergency identification***~~

~~2. The signs, graphics, and letter styles shall be designed to be compatible with surrounding development, to contribute to a sense of project identity, or, when appropriate, to reflect a sense of the history of the area and the architectural style.~~

~~3. The sign graphics and letter styles shall announce, inform, and designate particular areas or uses as simply and clearly as possible.~~

2~~4~~. The signs shall not obscure vehicle driver's sight distance.

~~5. Signs indicating future use shall be installed on land dedicated for public facilities (e.g., parks, water reservoir, fire halls, etc.).~~

3~~6~~. Signs and appropriate traffic control devices and markings shall be installed or painted in the driveway and parking lot areas to identify bicycle and pedestrian routes.

Q~~M~~. Utilities. The developer shall make necessary arrangements with utility companies or other persons or corporations affected for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting, and cable television, shall be placed underground, except as provided in subsection (1)~~as practical~~. The design standards ~~of Tables 1 and 2 above, and~~ of subsection 5.487 of the West Linn Municipal Code relative to existing high ambient noise levels shall apply to this section.

1. Exceptions to the underground utilities requirement shall be permitted in those cases where adjacent properties have above-ground utilities and where the development site's frontage is under 200 feet and the site is less than one acre. High voltage transmission lines, as classified by Portland General Electric or electric service provider, are also exempted. Where adjacent future development is planned or proposed, conduits may be required at the direction of the City Engineer. All services shall be underground with the exception of standard above-grade equipment such as some meters, etc.

~~N. Wireless communication facilities (WCFs). (This section only applicable to WCFs.) WCFs as defined in Chapter 57 CDC may be required to go through Class I or Class II design review. The approval criteria for Class I design review is that the visual impact of the WCF shall be minimal to the extent allowed by Chapter 57 CDC. Stealth designs shall be sufficiently camouflaged so that they are not easily seen by passersby in the public right-of-way or from any adjoining residential unit. WCFs that are classified as Class II design review must respond to all of the approval criteria of this chapter.~~

Commentary:

The refuse and recycling standards have been modified to remove discretionary language and, if applicable, replace it with clear and objective standards.

R~~O~~. Refuse and recycling standards.

1. All ~~commercial, industrial and~~ multi-family developments over five units requiring Class II design review shall comply with the standards set forth in these provisions. Modifications to these provisions may be permitted only if the applicant elects to use the discretionary review criteria in CDC 55.100. Refer to the criteria in CDC 55.100(O)(1).~~Planning Commission determines that the changes are consistent with the purpose of these provisions and the City receives written evidence from the local franchised solid waste and recycling firm that they are in agreement with the proposed modifications~~.

2. Compactors, containers, and drop boxes shall be located on a level Portland cement concrete pad, a minimum of four inches thick, at ground elevation or other location compatible with the local franchise collection firm's equipment at the time of construction. The pad shall be designed to discharge surface water runoff to avoid ponding.

3. Recycling and solid waste service areas.

a. Recycling receptacles shall be designed and located to serve the collection requirements for the specific type of material.

b. The recycling area shall be co-located ~~in close proximity to~~with the garbage container areas and be accessible to the local franchised collection firm's equipment.

c. Recycling receptacles or shelters located outside a structure shall have lids and be covered by a roof constructed of water and insect-resistive material. The maintenance of enclosures, receptacles and shelters is the responsibility of the property owner.

d. The location of the recycling area and method of storage shall be approved by the local fire marshal.

e. Recycling and solid waste service areas shall be at ground level and/or otherwise accessible to the franchised solid waste and recycling collection firm.

f. Recycling and solid waste service areas shall be used only for purposes of storing solid waste and recyclable materials and shall not be a general storage area to store personal belongings of tenants, lessees, property management or owners of the development or premises.

~~g. Recyclable material service areas shall be maintained in a clean and safe condition.~~

4. Special wastes or recyclable materials.

a. Environmentally hazardous wastes defined in ORS 466.005 shall be located, prepared, stored, maintained, collected, transported, and disposed in a manner acceptable to the Oregon Department of Environmental Quality.

b. Containers used to store cooking oils, grease or animal renderings for recycling or disposal shall not be located in the principal recyclable materials or solid waste storage areas. These materials shall be stored in a separate storage area designed for such purpose.

5. Screening and buffering.

a. Enclosures shall include a curbed landscape area at least three feet in width on the sides and rear. Landscaping shall include, at a minimum, a continuous hedge maintained at a height of 36 inches.

b. Placement of enclosures adjacent to residentially zoned property and along street frontages is strongly discouraged. ~~They shall be~~If enclosures are not located so as to conceal them from public view~~ to the maximum extent possible~~, the landscape hedge required under subsection (O)(5)(a) of this section shall be at least 6 feet tall.

c. All dumpsters and other trash containers shall be completely screened on all four sides with an enclosure that is comprised of a durable material such as masonry that is used in at least one building on the site~~with a finish that is architecturally compatible with the project~~. Chain link fencing, with or without slats, will not be allowed.

6. Litter receptacles.

a. Location. Litter receptacles may not encroach upon the minimum required walkway widths.

b. Litter receptacles may not be located within public rights-of-way except as permitted through an agreement with the City in a manner acceptable to the City Attorney or their designee.

c. Number. The number and location of proposed litter receptacles shall be based on the type and size of the proposed uses. ~~However, at a minimum, for non-residential uses, at least one external litter receptacle shall be provided for every 25 parking spaces for first 100 spaces, plus one receptacle for every additional 100 spaces.~~ (Ord. 1547, 2007; Ord. 1604 § 52, 2011; Ord. 1613 § 12, 2013; amended during July 2014 supplement; Ord. 1623 § 6, 2014; Ord. 1635 § 26, 2014; Ord. 1636 § 37, 2014; Ord. 1647 § 6, 2016; Ord. 1650 § 1 (Exh. A), 2016; Ord. 1662 § 8, 2017; Ord. 1675 § 45, 2018)

55.110 SITE ANALYSIS

The site analysis shall include:

A. A vicinity map showing the location of the property in relation to adjacent properties, roads, pedestrian and bike ways, transit stops and utility access.

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

1. The property boundaries, dimensions, and gross area.

2. Contour lines at the following minimum intervals:

   a. Two-foot intervals for slopes from zero to 25 percent; and

   b. Five- or 10-foot intervals for slopes in excess of 25 percent.

3. Tables and maps identifying acreage, location and type of development constraints due to site characteristics such as slope, drainage and geologic hazards, including a slope analysis which identifies portions of the site according to the land types (I, II, III and IV) defined in Chapter 02 CDC.

4. The location and width of adjoining streets.

5. The drainage patterns and drainage courses on the site and on adjacent lands.

6. Potential natural hazard areas including:

   a. Floodplain areas pursuant to the site's applicable FEMA Flood Map panel;

   b. Water resource areas as defined by Chapter 32 CDC;

   c. Landslide areas designated by the Natural Hazard Mitigation Plan, Map 16; and

   d. Landslide vulnerable analysis areas, designated by the Natural Hazard Mitigation Plan, Map 17.

7. Resource areas including:

   a. Wetlands;

   b. Riparian corridors;

   c. Streams, including intermittent and ephemeral streams;

   d. Habitat conservation areas; and

   e. Large rock outcroppings.

8. Potential historic landmarks and registered archaeological sites. The existence of such sites on the property shall be verified from records maintained by the Community Development Department and other recognized sources.

9. Identification information including the name and address of the owner, developer, project designer, lineal scale and north arrow.

10. Identify Type I and II lands in map form. Provide a table which identifies square footage of Type I and II lands also as percentage of total site square footage. (Ord. 1408, 1998; Ord. 1425, 1998; Ord. 1442, 1999;

Ord. 1463, 2000; Ord. 1526, 2005; Ord. 1544, 2007; Ord. 1565, 2008; Ord. 1590 § 1, 2009; Ord. 1613 § 13, 2013; Ord. 1621 § 25, 2014; Ord. 1635 § 27, 2014; Ord. 1636 § 38, 2014; Ord. 1662 § 9, 2017)

55.120 SITE PLAN

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

A. The applicant's entire property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development and adjacent property and development.

B. Boundary lines and dimensions for the perimeter of the property and the dimensions for all proposed lot or parcel lines.

C. Streams and stream corridors.

D. Identification information, including the name and address of the owner, developer, project designer, lineal scale and north arrow.

E. The location, dimensions, and names of all existing and proposed streets, public pathways, easements on adjacent properties and on the site, and all associated rights-of-way.

F. The location, dimensions and setback distances of all:

1. Existing and proposed structures, improvements, and utility facilities on site; and

2. Existing structures and driveways on adjoining properties.

G. The location and dimensions of:

1. The entrances and exits to the site;

2. The parking and circulation areas;

3. Areas for waste disposal, recycling, loading, and delivery;

4. Pedestrian and bicycle routes, including designated routes, through parking lots and to adjacent rights-of-way;

5. On-site outdoor recreation spaces and common areas;

6. All utilities, including stormwater detention and treatment; and

7. Sign locations.

H. The location of areas to be landscaped. (Ord. 1442, 1999; Ord. 1613 § 14, 2013; Ord. 1622 § 28, 2014; Ord. 1636 § 39, 2014)

55.125 TRANSPORTATION ANALYSIS

Certain development proposals required that a Traffic Impact Analysis (TIA) be provided which may result in modifications to the site plan or conditions of approval to address or minimize any adverse impacts created by the proposal. The purpose, applicability and standards of this analysis are found in CDC 85.170(B)(2). (Ord. 1584, 2008)

55.130 GRADING AND DRAINAGE PLANS

The following requirements apply to ~~For~~ Type I, II and III lands (refer to definitions in Chapter 02 CDC)., ~~a~~ A registered civil engineer must prepare a grading plan and a storm detention and treatment plan pursuant to CDC 92.010(E), at a scale sufficient to evaluate all aspects of the proposal, and a statement that demonstrates:

A. The location and extent to which grading will take place indicating general contour lines consistent with CDC 55.110(B)(2), slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed.

B. All proposed storm detention and treatment facilities comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards.

C. There is sufficient factual data to support the conclusions of the plan.

D. Per CDC 99.035, the Planning Director may require the information in subsections A, B and C of this section for Type IV lands if the information is needed to properly evaluate the proposed site plan.

E. For Type I, II and III lands (refer to definitions in Chapter 02 CDC), the applicant must provide a geologic report, with text, figures and attachments as needed to meet the industry standard of practice, prepared by a certified engineering geologist and/or a geotechnical professional engineer, that includes:

1. Site characteristics, geologic descriptions and a summary of the site investigation conducted;

2. Assessment of engineering geological conditions and factors;

3. Review of the City of West Linn's Natural Hazard Mitigation Plan and applicability to the site; and

4. Conclusions and recommendations focused on geologic constraints for the proposed land use or development activity, limitations and potential risks of development, recommendations for mitigation approaches and additional work needed at future development stages including further testing and monitoring.

F. Identification information, including the name and address of the owner, developer, project designer, and the project engineer. (Ord. 1463, 2000; Ord. 1613 § 15, 2013; Ord. 1622 § 28, 2014; Ord. 1662 § 10, 2017)

55.140 ARCHITECTURAL DRAWINGS

~~This section does not apply to single-family residential subdivisions or partitions, or up to two duplexes or single-family attached dwellings.~~

Architectural drawings shall be submitted showing:

A. Building elevations and sections tied to curb elevation;

B. Building materials: color and type; and

C. The name of the architect or designer. (Ord. 1408, 1998; Ord. 1613 § 16, 2013)

55.150 LANDSCAPE PLAN

~~This section does not apply to detached single-family residential subdivisions or partitions, or up to two duplexes or single-family attached dwellings.~~

A. The landscape plan shall be prepared and shall show the following:

1. Preliminary underground irrigation system, if proposed;

2. The location and height of fences and other buffering of screening materials, if proposed;

3. The location of terraces, decks, patios, shelters, and play areas, if proposed;

4. The location, size, and species of the existing and proposed plant materials, if proposed; and

5. Building and pavement outlines.

B. The landscape plan shall be accompanied by:

1. The erosion controls that will be used, if necessary;

2. Planting list; and

3. Supplemental information as required by the Planning Director or City Arborist. (Ord. 1408, 1998; Ord. 1613 § 17, 2013)

55.170 EXCEPTIONS TO UNDERLYING ZONE, YARD, PARKING, SIGN PROVISIONS, AND LANDSCAPING PROVISIONS

Commentary:

Except for numeric standards, the criteria for the exceptions below are not clear and objective. Therefore, they can only be permitted for residential development if the applicant elects to use the discretionary review path.

A. Applicability. The following exceptions are not available to applicants using the Residential/Clear and Objective Class I or II design review criteria in CDC 55.095 or 55.105. They are only available to applicants for residential development if electing to use the discretionary criteria contained in CDC 55.090 or 55.100.

B~~A~~. The Planning Director may grant an exception to the dimensional building setback or yard requirements in the applicable zone based on findings that the approval will satisfy the following criteria:

1. A minor exception that is not greater than 20 percent of the required setback dimension.

2. A more efficient use of the site.

3. The preservation of natural features that have been incorporated into the overall design of the project.

4. No adverse affect to adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazard.

5. Safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.

C~~B~~. The Planning Director may grant an exception to the off-street parking dimensional and minimum number of space requirements in the applicable zone so long as the following criteria are met:

1. The minor exception is not greater than 10 percent of the required parking;

2. The application is for a use designed for a specific purpose which is intended to be permanent in nature (for example, a nursing home) and which has a low demand for off-street parking; or

3. There is an opportunity for sharing parking and there is written evidence that the property owners are willing to enter into a legal agreement; or

4. Public transportation is available to the site reducing the standards and will not adversely affect adjoining uses, and there is a community interest in the preservation of particular natural feature(s) of the site which make it in the public interest to grant an exception to parking standards.

D~~C~~. The Planning Director may grant an exception to the sign dimensional requirements in the applicable zone when the following criteria are met:

1. The minor exception is not greater than 10 percent of the required applicable dimensional standard for signs;

2. The exception is necessary for adequate identification of the use on the property; and

3. The sign will be compatible with the overall site plan, the structural improvements, and with the structures and uses on adjoining properties.

E~~D~~. The Planning Director may grant an exception to the landscaping requirements in the applicable zone based on findings that the following criteria will be met:

1. A minor exception that is not greater than 10 percent of the required landscaped area.

2. A more efficient use of the site.

3. The preservation of natural features that have been incorporated into the overall design of the project.

4. No adverse effect to adjoining property.

55.180 MAINTENANCE

All on-site improvements shall be the ongoing responsibility of the property owner or occupant.

Commentary:

The Shared Open Space provisions below require either public dedication of open space or granting the development rights to the City. This section would be very challenging to implement, and staff does not recall it being used in recent memory. Therefore, it is proposed to be removed.

~~55.190 SHARED OPEN SPACE~~

~~Where the open space is designated on the plan as common open space, the following shall apply:~~

~~A. The open space area shall be shown on the final plan and recorded with the Planning Director.~~

~~B. The open space shall be conveyed in accordance with one of the following methods:~~

~~1. By dedication to the City as publicly owned and maintained as open space. Open space proposed for dedication to the City must be acceptable to it with regard to the size, shape, location, improvement, and budgetary and maintenance limitations.~~

~~2. By leasing or conveying title (including beneficial ownership) to a corporation, home association, or other legal entity with the City retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions suitable to the City Attorney for guaranteeing the following:~~

~~a. The continued use of such land for intended purposes.~~

~~b. Continuity of property maintenance.~~

~~c. When appropriate, the availability of funds required for such maintenance.~~

~~d. Adequate insurance protection.~~

~~e. Recovery for loss sustained by casualty and condemnation, or otherwise.~~

~~3. By any method that achieves the objectives set forth in subsection (B)(2) of this section.~~

55.195 ANNEXATION AND STREET LIGHTS

As a condition of approval for design review for any project that is being annexed to the City, the developer and/or homeowners association shall pay for all expenses related to street light energy and maintenance costs until annexed into the City. The approval for any property annexed must state: "This approval is contingent on voter approval of annexation of the subject property." This means that no permit, final plat, or certificate of occupancy may be issued or approved until annexation is complete. (Ord. 1442, 1999; Ord. 1604 § 53, 2011)

Commentary:
See the commentary box in Section 58.080 *STANDARDS*.

Chapter 58

WILLAMETTE FALLS DRIVE COMMERCIAL DESIGN DISTRICT

Sections:

58.010 PURPOSE
58.020 IMPLEMENTATION
58.030 APPLICABILITY
58.040 EXEMPTIONS
58.050 PERMITTED USES
58.060 *REPEALED*
58.065 *REPEALED*
58.070 APPLICATION AND SUBMITTAL REQUIREMENTS
58.080 STANDARDS
58.090 DESIGN EXCEPTION PROCEDURES
58.100 EXPIRATION OR EXTENSION OF APPROVAL

58.010 PURPOSE

A. Implement the goals and policies of the economic element of the Comprehensive Plan relating to the rehabilitation and revitalization of the Willamette Commercial District.

B. Enhance the historic and aesthetic quality of the Commercial District.

C. Increase the attractiveness of the commercial areas to tourists, customers, tenants, business owners, and City residents.

D. Reinforce the commitment to existing commercial buildings of the 1880 – 1915 period and complement the adjacent residential historic district.

E. Encourage a sense of historic identity for the Willamette area and West Linn as a whole. (Ord. 1735 § 4 (Exh. C), 2022)

58.020 IMPLEMENTATION

The intent and purpose of this chapter shall be carried out by establishing architectural standards of the 1880 – 1915 period which shall be used in new commercial construction and remodels. The provisions of this chapter shall supersede any conflicting standards found in Chapter 55 CDC. (Ord. 1735 § 4 (Exh. C), 2022)

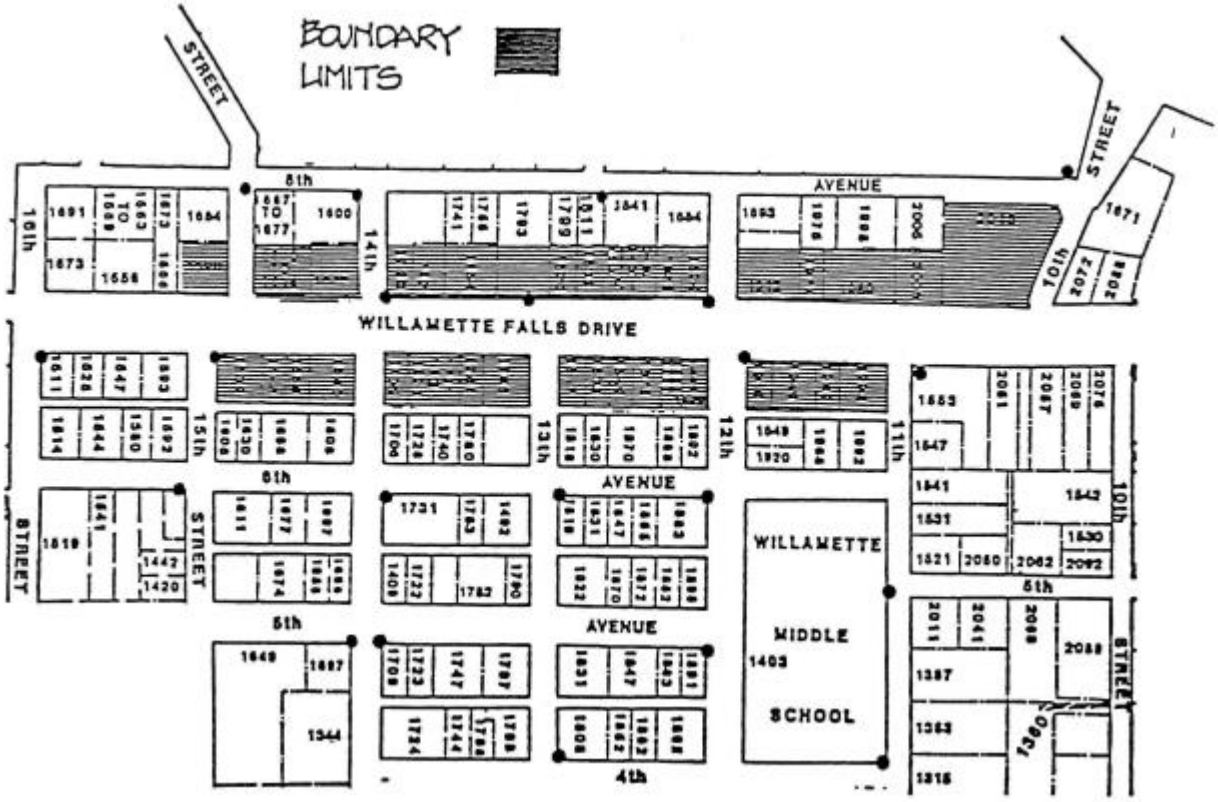
58.030 APPLICABILITY

A. The provisions of this chapter shall apply to all new commercial construction, alterations, and remodels on Willamette Falls Drive between 10th and 15th Streets. Properties that are historic resources shall comply with the provisions of Chapter 25 CDC, as applicable. Failure to obtain a permit shall constitute a Class A violation pursuant to CDC 106.050.

B. The type of design review application required is defined in Chapter 25 CDC for properties identified on the West Linn Historic Resource Map and defined in Chapter 55 CDC for all other properties.

C. Boundary limits. The affected area shall be as delineated in Figure 1. Generally, the area is along Willamette Falls Drive between 10th Street and 15th Street.

Figure 1



(Ord. 1350, 1993; Ord. 1614 § 10, 2013; Ord. 1621 § 25, 2014; Ord. 1735 § 4 (Exh. C), 2022)

58.040 EXEMPTIONS

Ordinary maintenance or repair that replaces in kind and does not alter the architectural details or style of the structure is exempt from review. Remodels to exclusive single-family residential homes are exempt from the provisions of this chapter. Single-family homes that are used for businesses or home occupations are not exempt. Repainting any structure requires review and is not exempt, but does not require any notice. All exemptions must be approved by the Planning Director. (Ord. 1735 § 4 (Exh. C), 2022)

58.050 PERMITTED USES

All uses permitted by the underlying General Commercial zone shall be allowed pursuant to CDC 19.030, 19.040, 19.050, and 19.060 and shall require the application of the standards of this chapter. Residential use of the second floor and the rear portion only of the ground floor, with no access onto Willamette Falls Drive, is permitted by application through this chapter. Residential use may only comprise 50 percent or less of the total square footage of the building combined. Commercial uses shall dominate the first floor. (Ord. 1401, 1997; Ord. 1735 § 4 (Exh. C), 2022)

58.060 REVIEW BODY

Repealed by Ord. 1597.

58.065 APPEALS OF HISTORIC REVIEW BOARD

Repealed by Ord. 1597. (Ord. 1474, 2001)

58.070 APPLICATION AND SUBMITTAL REQUIREMENTS

A. Applicants shall attend a pre-application conference if required by CDC 99.030(B).

B. The Director shall determine the appropriateness of the proposal and the completeness of the materials to be submitted. The Director may consult with members of the Historic Review Board in this process.

C. The application is made with appropriate fees. A written narrative may be required explaining how the proposal meets the approval criteria.

D. All applications for remodels and new construction shall require scaled elevation plans, site plans, and material and color board. (Ord. 1599 § 5, 2011; Ord. 1735 § 4 (Exh. C), 2022)

58.080 STANDARDS

Commentary:
Subsection (A), below, states that the design standards in this chapter are clear and objective; however, many of the standards do allow discretion or interpretation. Residential uses are only permitted in the Willamette Falls Drive Commercial Design District on the upper floors of commercial buildings, or to the rear of a ground floor (i.e., not facing the street). Most of the standards in this chapter are geared toward regulating the ground floor facing the street, where residential uses are not permitted. Therefore, it may not be necessary to convert all the discretionary standards into truly clear and objective standards, since the standards will mostly apply to commercial development. Also, it is not the intent of the Clear and Objective Code Compliance Project to modify regulations that would apply to non-residential development, and updating the standards in this chapter would do that.

Therefore, our proposed approach to this chapter is to generally leave the existing standards as-is. A few standards that are the most likely to affect the residential portion of a mixed-use building (e.g., setbacks and windows), and which can be made clear and objective without changing the intended design outcomes, are proposed to be updated.

If more extensive updates to this chapter are desired, we suggest the City take that on as a separate project, in consultation with the Historic Review Board.

A. Purpose.

1. Standards are needed to provide a clear and objective list of design elements that are needed to bring new construction and remodels into conformance with 1880 – 1915 architecture. Buildings of the period saw relatively few deviations in design. Consequently, the Historic Review Board will require conformance with the standards. Deviations or deletions from the standards are addressed in the design exception procedure of this chapter.

2.~~B.~~ The use of neo-designs or simply contextual designs which only attempt to capture the basic or generalized elements such as building line, massing and form, etc., is not acceptable.

CONTEXTUAL DESIGN, AT RIGHT, IS NOT PERMITTED. IT INCORPORATES ONLY A FEW OF THE REQUIRED FEATURES.

B~~C~~. The following standards shall apply to new construction and remodels.

1. Dimensional standards.

a. Front: zero-foot setback. Building may not be set back from the property line unless it is consistent with predominant building line.

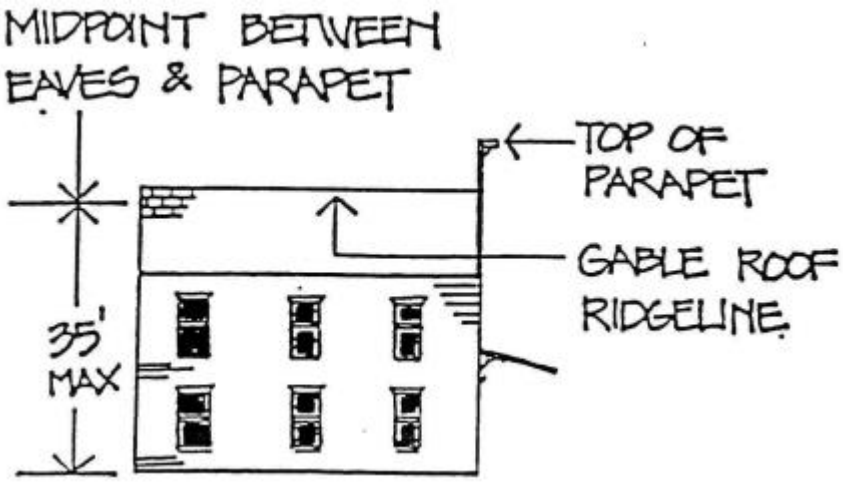
b. Side and side street: zero-foot setback. Building may not be set back from the side property line except for side passageway, accessway, or stairway unless fire codes dictate otherwise. The setback shall not exceed six feet.

c. Rear: 20-foot setback. Setbacks between zero and 20 feet are permitted only if requested by the applicant as part of a discretionary review, and only if the applicant can demonstrate that they can successfully mitigate any impacts associated with the building in current and future uses as they would relate to abutting residential and other properties.

d. Lot coverage: up to 100 percent of lot may be developed, if the criteria in subsection (B)(1)(c) are met ~~depending upon ability to mitigate impacts upon abutting residential and other uses~~.

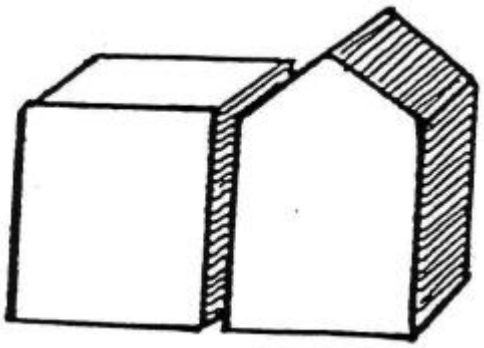
2. Minimum landscaping required. Sites in this district are exempt from landscaping requirements as identified in Chapter 54 CDC, Landscaping, with the exception of parking areas.

3. Building height limitations. Maximum building height shall be 35 feet (as measured by this code), and two stories. A false front shall be considered as the peak of the building if it exceeds the gable roof ridgeline.

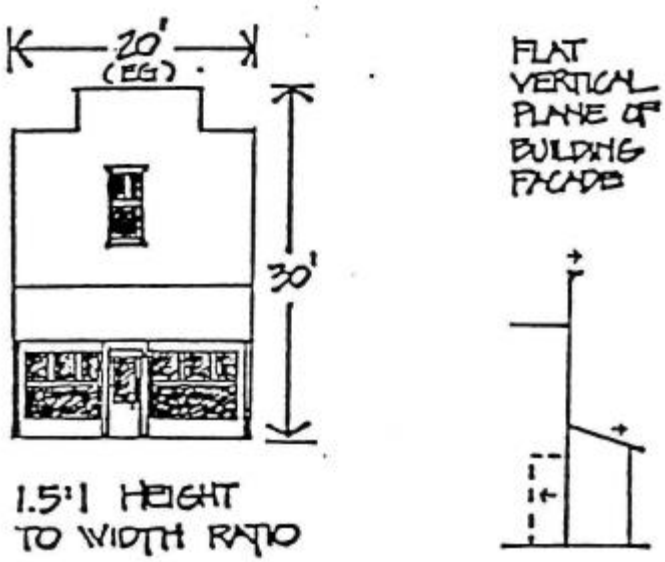


4. External ground level or first story minimum height. Ten feet to allow transoms.

5. Roof form. Flat or pitched roofs. Pitched roof ridgeline shall run from the front of the building to the back.



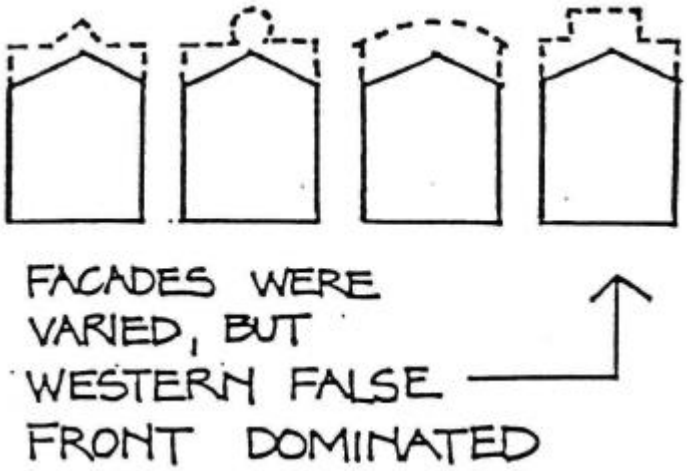
6. Building form, scale and depth. Building shall emphasize the vertical through narrow, tall windows (especially on second floor), vertical awning supports, engaged columns, and exaggerated facades creating a height-to-width ratio of 1.5:1.



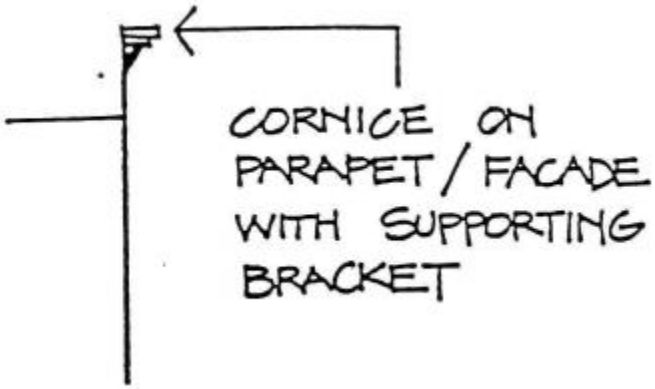
Building depth shall be flat, only relieved by awning and cornice projections and the indented doorway.

7. Visual building breaks. Strong vertical breaks or lines should be regularly spaced every 25 to 50 feet.

8. Facades. No gables, hipped, or pitched roofs shall be exposed to the street at the front. The "Western false front" shall be the preferred style although variations shall be allowed through a design exception.



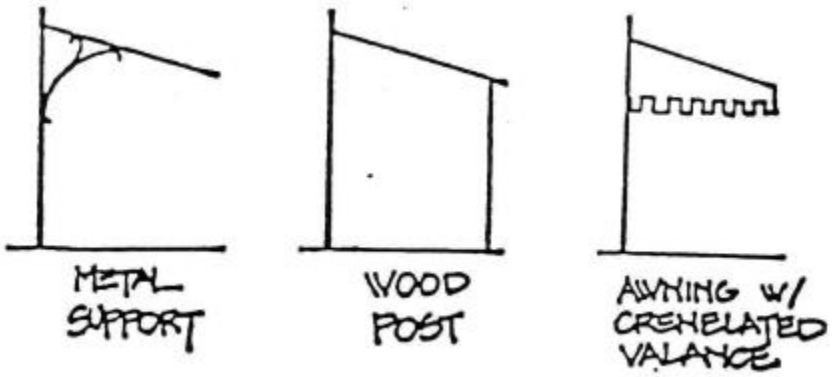
9. Cornice. Cornices shall be broad and may include regularly spaced supporting brackets. A cornice is not required, but preferred.



10. Building materials and orientation. Horizontal wood siding in one-inch by eight-inch dimensions shall be used, unless brick or other materials are permitted by a design exception obtained only under CDC 58.090.

11. Awnings. All buildings shall have awnings extending out from building face. Awnings are preferred for micro-climate benefits. Ideally, the building will have both transom and awnings, although transoms are not required.

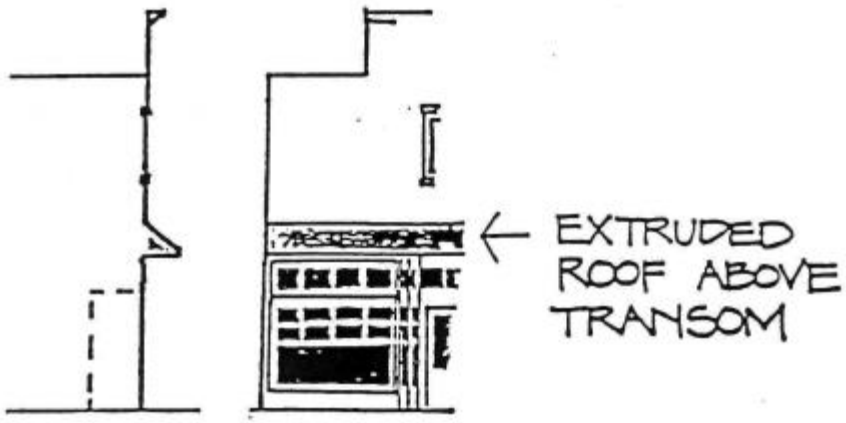
Awnings shall be either canvas or vinyl, or similar approved material, supported by an internal metal framework or metal or wood supported by a curved metal support attached to the building.



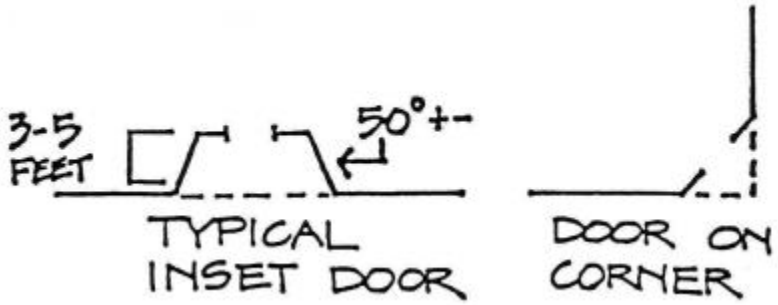
Awnings shall extend a minimum of five feet from the facade and along a minimum of 80 percent of a street facing facade to provide appropriate pedestrian coverage and shall meet ADA requirements. The pitch of the awning shall be 10 to 40 degrees. No "bubble-type" awnings are permitted. No backlit awnings are permitted. Canvas or matte-finish vinyl, or similar approved material awnings, may be one color or striped and shall have a free-hanging plain or crenelated valance. Canvas or matte-finish vinyl, or similar approved material awnings, should not be shared between two structures. Each structure should have its own awning.

12. Extruded roofs. As a substitute for an awning, extruded roofs have a 10- to 40-degree pitch and extend one to two feet from the building face just above the transom windows where the first and second stories meet. The roof runs along the entire building frontage.

Standard roofing materials are used. Transoms are required with extruded roofs.



13. Doors and entryways. The entryway shall be centered in the middle of the building at grade. The buildings on street corners may position their doors on the corner at an angle as depicted in the illustration. The doors may be single or double doors. The doors shall be recessed three to five feet back from the building line. Doors shall have glazing in the upper two-thirds to half of the door. Panels should decorate the lower portions. The entryway shall have windows all the way around at the same level as the other display windows. Wood doors are preferable although alternatives with a dark matte finish may be acceptable.



14. Glazing. Clear glass only. No mirrored or tinted glass. No films applied to glass. Lettering on glass is permitted.

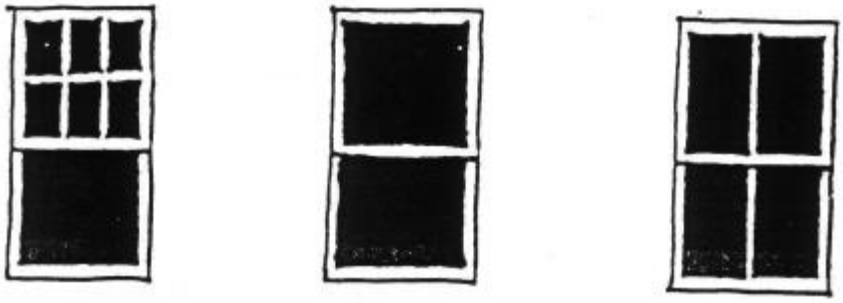
15. Display or pedestrian-level windows. Shall extend across at least 80 percent of building front. The windows shall start one and one-half to two and one-half feet above grade to a height of seven to eight feet, and shall be level with the top of the height of the adjacent entryway area, excluding transom. A single sheet of glass is not permitted. The window shall be broken up into numerous sections, also known as lights. From 1880 onwards, the number of lights was generally no more than six in a pedestrian-level window. The frames may be wood or vinyl-clad wood, or other materials so long as a matte finish is possible.

MULTI-PANED PEDESTRIAN LEVEL WINDOWS

16. Second floor and other windows.

a. Standard for residential development. Windows shall be double- or single-hung and shall be evenly spaced across the horizontal width of the façade. Windows shall either have a 3:1 height to width ratio for the glass area or shall be square. Square windows shall have minimum dimensions of one and one-half feet per side and maximum dimensions of two feet per side. There shall be a minimum of two lights in each window; options include "one over one" of equal size, "two over one," or "four over one," as illustrated below.

b. Standard for non-residential development. Double- and single-hung windows proportionately spaced and centered should be used. Smaller square shaped windows may be permitted (one and one-half feet to two feet per side). A typical window should have a 3:1 height to width ratio for the glass area. There should be a minimum of two lights: "one over one" of equal size. "Two over one" or "four over one" is appropriate.



17. Wainscotting. Wainscotting shall be consistent with primary material of the building, typically wood.

18. Shutters. Shutters are not allowed.

19. Balconies. No balconies are permitted except on rear of building.

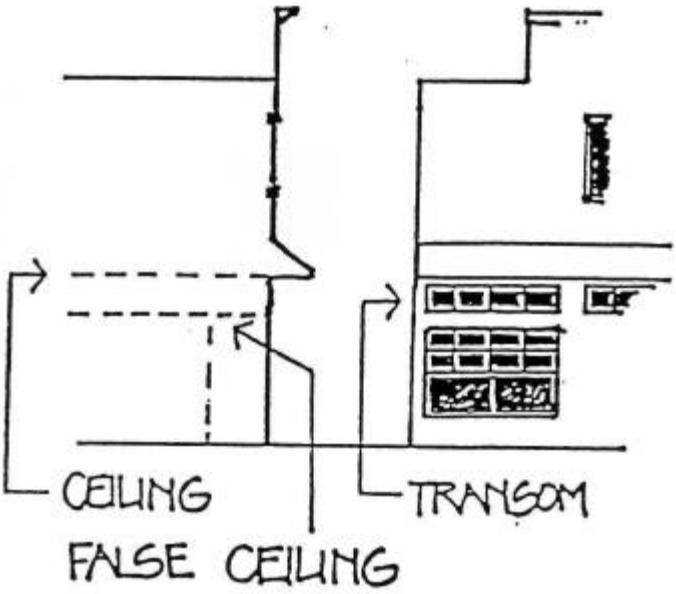
20. Exterior stairs. Simple stairs are permitted on the rear or side of the building only.

21. Roof-mounted mechanical equipment. Equipment shall be screened from view on all sides by normal and consistent architectural features of the building. CDC 55.100(D), Privacy and noise, shall apply.

22. Air conditioning. No window types on avenue or street side are permitted. Window-mounted air conditioners are not allowed at rear where abutting residential.

23. Exterior lighting fixtures. Any lighting fixtures that can be traced to 1880 – 1915 period are permitted. Simple modern fixtures that are screened and/or do not attract attention are acceptable. Overly ornate fixtures of the Victorian era are to be discouraged.

24. Transoms. Transom windows are required with extruded roofs and optional with awnings. Transom windows shall cover the front of the building above, but not beyond, the main display windows, and the entryway area. Transoms should be broken up into sections every six inches to three feet in a consistent and equal pattern. Height should not exceed three feet. Transoms may or may not open. False ceilings are allowed behind the transoms.



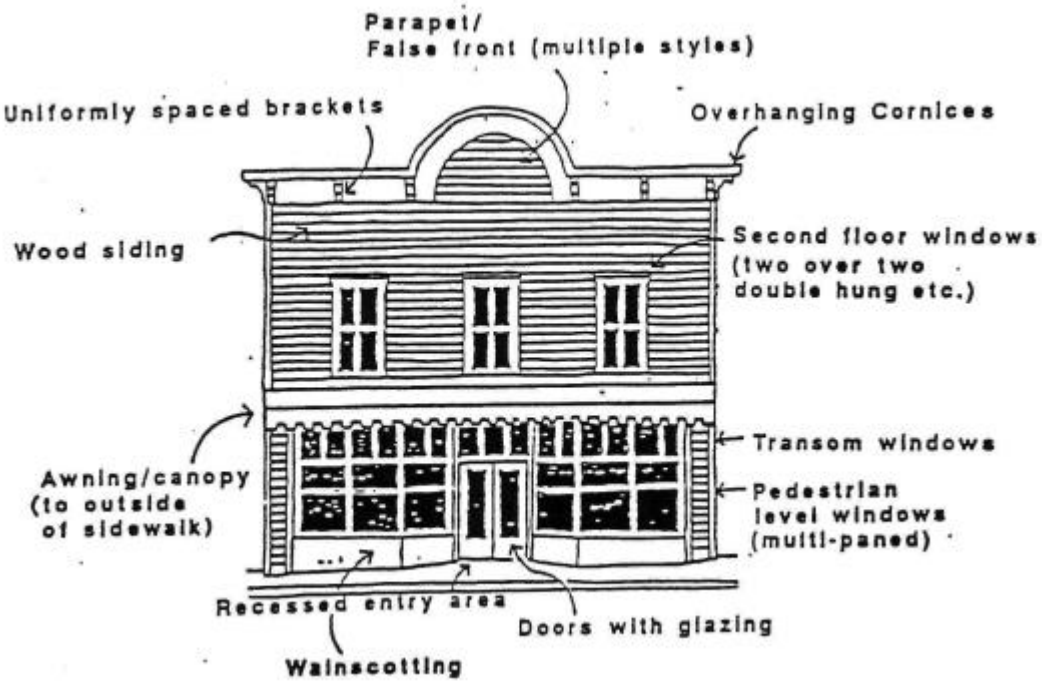
25. Paint colors. Body color typically included white, cream, or a light, warm color of low intensity. Accents, trims, windows, etc., should be dark-colored. A palette or color wheel, submitted by the applicant, of acceptable 1880 – 1915 period colors shall be the basis for color selection. Colors shall be similar to or consistent with existing buildings within the Willamette Commercial District to establish streetscape continuity. (Ord. 1391, 1996; Ord. 1401, 1997; Ord. 1604 § 59, 2011; Ord. 1613 § 18, 2013; Ord. 1621 § 25, 2014; Ord. 1675 § 47, 2018; Ord. 1735 § 4 (Exh. C), 2022. Formerly 58.090)

58.090 DESIGN EXCEPTION PROCEDURES

In those circumstances where a design proposal cannot meet the standards, or proposes an alternative to the standard, the Historic Review Board may grant a design exception in those cases where one of the following criteria is met:

A. The applicant can demonstrate by review of historical records or photographs that the alternative is correct and appropriate to architecture in the region, and especially West Linn, in 1880 – 1915.

B. The applicant is incorporating exceptional 1880 – 1915 architecture into the building which overcompensates for an omission, deviation, or use of non-period materials. The emphasis is upon superior design, detail, or workmanship.



C. The application is for the restoration or alteration of an existing, out-of-period structure where it can be demonstrated that applicant cannot reasonably comply with the standard due to existing building setbacks, orientation, roof forms, materials, architectural style, functional design, or other existing conditions; and where the exception would further the purpose of this chapter as set forth in CDC 58.010. This exception does not apply when the structure is demolished. (Ord. 1735 § 4 (Exh. C), 2022. Formerly 58.100)

58.100 EXPIRATION OR EXTENSION OF APPROVAL

If substantial construction has not occurred within three years from the date of approval of the development plan, the approved proposal will be void, unless an extension is granted per CDC 99.325. (Ord. 1589 § 1 (Exh. A), 2010; Ord. 1735 § 4 (Exh. C), 2022. Formerly 58.110)

Commentary:

Proposed amendments to this chapter include the following:

- Section 59.020 – Added a reference to Design Review. Refer to the commentary box at the beginning of Chapter 08 for explanation.
- Section 59.030 – Added manufactured homes to the list of permitted uses. Per state law, in zones where single-family detached dwellings are permitted, manufactured homes must also be allowed (ORS 197.314).
- Section 59.070(B) – Clarified which housing types are subject to Design Review. Pursuant to House Bill 2001, the same review procedure must apply to middle housing as applies to single-family detached dwellings. Also revised the design standards to be clear and objective and to more applicable to all development types. The standards apply to all development in the Willamette Neighborhood zone, but they are written as though they only apply to single-family development.
- Section 59.080 – Clarified that the limitation on operating hours (6 AM to 10 PM) only applies to commercial and other non-residential uses.

Chapter 59

WILLAMETTE NEIGHBORHOOD MIXED USE TRANSITIONAL ZONE

Sections:

59.010 PURPOSE
59.020 PROCEDURES AND APPROVAL PROCESS
59.030 PERMITTED USES
59.040 ACCESSORY USES
59.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS
59.060 CONDITIONAL USES
59.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS
59.080 ADDITIONAL USE REQUIREMENTS
59.090 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES
59.100 OTHER APPLICABLE DEVELOPMENT STANDARDS

59.010 PURPOSE

The purpose of the mixed use/transitional zone is to provide for a transitional area between commercial and residential zones with a desirable mix of residential land uses with limited commercial land uses. The limited commercial uses allowed in this district are selected for their compatibility with residential uses and their ability to meet the needs of the neighborhood. Uses in this district are intended to be compatible with the design and aesthetic qualities of the adjacent neighborhood. This zone is intended to implement the Willamette neighborhood plan as authorized by the policies set forth in the Comprehensive Plan. (Ord. 1515, 2005; Ord. 1547, 2007)

59.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 59.030, is a use that requires no approval under the provisions of this code, except that all uses require design review pursuant to CDC 59.100(13). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

B. A use permitted under prescribed conditions, CDC 59.050, is a use for which approval will be granted provided all conditions are satisfied, and:

1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and

2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 99.240(A).

C. The approval of a conditional use (CDC 59.060) is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

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

1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.

2. Chapter 66 CDC, Non-conforming Structures.

3. Chapter 67 CDC, Non-conforming Uses of Land.

4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.

5. Chapter 75 CDC, Variance. (Ord. 1515, 2005; Ord. 1547, 2007)

59.030 PERMITTED USES

The following are uses permitted outright in this zone:

1. Single-family attached or detached dwelling;

   a. Duplex residential units;

   b. Triplex residential units;

   c. Quadplex residential units;

2. Manufactured home;

3~~2~~. Multifamily dwelling;

4~~3~~. Townhouse;

5~~4~~. Cottage cluster;

6~~5~~. Common-wall single-family dwellings above a permitted use;

7~~6~~. Residential use of the second floor or a portion of the ground floor of a permitted use;

8~~7~~. Residential home;

9~~8~~. Family day care;

10~~9~~. Bed and breakfast lodging;

11~~10~~. Animal sales and services, grooming;

12~~11~~. Business support services;

13~~12~~. Cultural exhibits and library services;

14~~13~~. General retail services;

15~~14~~. Medical and dental services;

16~~15~~. Personal service facilities;

17~~16~~. Professional and administrative services;

18~~17~~. Transportation facilities (Type I);

19~~18~~. Utility, minor. (Ord. 1515, 2005; Ord. 1547, 2007; Ord. 1604 § 60, 2011; Ord. 1686 § 3, 2018; Ord. 1736 § 1 (Exh. A), 2022)

59.040 ACCESSORY USES

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

2. Manufacture or repackaging of goods for on-site sale. (Ord. 1515, 2005; Ord. 1547, 2007; Ord. 1686 § 4, 2018)

59.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Signs, subject to the following provisions:

   a. Wall signs. Shall not exceed 10 percent of the square footage of the front elevation. The calculation of allowable signage is explained in CDC 52.300. The sign(s) shall be proportionate to buildings and signs on adjacent buildings. The 10 percent shall be broken up into multiple signs. The sign(s) shall be mounted or painted on the second floor, on the valance of the awning, on the windows at pedestrian level, or on four-by-four awning posts.

   b. Ground-mounted signs. One ground-mounted sign is permitted in the front yard with a maximum size of 16 square feet, a maximum height of four feet, and a minimum setback of five feet from the right-of-way.

   c. No signs shall be the internally lit "can" type. No backlit signs are permitted. Illumination by spotlight is permitted for either sign type. Neon signs are permitted only inside the windows. No flashing signs are allowed. By temporary sign permit only, neon colored lettering or designs painted on windows or on paper or banners in the windows are allowed, but discouraged. Small signs or plaques that describe the building in a historical sense are exempt from the allowable square footage restrictions. Signs cannot project from the building face.

   d. Temporary signs. Temporary sandwich board signs are permitted without the temporal restrictions of Chapter 52 CDC.

   e. All other provisions of Chapter 52 CDC. Signs are applicable unless they conflict with the provisions of this chapter.

2. Temporary use, subject to the provisions of Chapter 35 CDC.

3. Home occupations, subject to the provisions of Chapter 37 CDC.

4. Consumer repair services, as prescribed with no exterior storage.

5. Animal sales and services: veterinary (small animals), as prescribed with no exterior runs or storage.

6. Financial and insurance, as prescribed with no drive-through service.

7. Building maintenance services, as prescribed with no exterior storage.

8. Wireless communication facilities, subject to the provisions of Chapter 57 CDC. (Ord. 1515, 2005; Ord. 1547, 2007; Ord. 1686 § 5, 2018)

59.060 CONDITIONAL USES

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

1. Certified child care center.

2. Community building.

3. Religious institution.

4. Senior center.

5. Public support and public safety facilities, including public parking lots.

6. Nursery.

7. Parks and open space.

8. Eating and drinking establishments.

9. Food and beverage retail sales.

10. Hotel/motel.

11. Construction sales and services.

12. Parking facilities. (Ord. 1515, 2005; Ord. 1547, 2007; Ord. 1655 § 6, 2016; Ord. 1675 § 48, 2018; Ord. 1686 § 6, 2018)

59.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

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

STANDARD		REQUIREMENT	ADDITIONAL NOTES
Minimum lot size		4,500 sf	Unless defined as an existing lot of record
Maximum lot size		10,000 sf	
Average minimum lot or parcel size for a townhouse project		1,500 sf	
Minimum front lot line Minimum lot width at front lot line		35 ft	Does not apply to townhouses or cottage clusters
Average minimum lot width		50 ft	Does not apply to townhouses or cottage clusters
Average minimum lot depth		90 ft	Does not apply to townhouses or cottage clusters
Minimum yard dimensions or minimum building setbacks			Front, rear, and side yard setbacks for a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.
	Front yard	12 ft	A porch, patio, or pedestrian amenity may be six feet from the front property line.
	Maximum	20 ft	
	Interior side yard	7.5 ft	Townhouse common walls that are attached may have a 0-ft side setback.
	Street side yard	12 ft	
	Rear yard	20 ft	Where the use abuts a residential district, the setback distance required in the residential district shall apply, and within the setback area a buffer of at least 10 feet of landscaping in addition to a fence is required.
Maximum building height		35 ft or 2 stories above grade, whichever is less	
Maximum building size		6,000 sf	For all floors above grade excluding porches
Maximum floor area ratio		0.40	Maximum FAR does not apply to cottage clusters. Except that the ground floor of the building shall not exceed 5,000 square feet. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.
Minimum floor area ratio		0.30	The minimum shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.

B. Design standards. All uses in the mixed-use zone shall comply with the provisions of Chapter 55 CDC, except for CDC 55.100(B)(7)(a), (b), (c), (h), (i), and (j); or CDC 55.105(E)(1), as applicable. Further, single-family

residential uses, townhouses, manufactured homes, and cottage clusters shall also comply with the Class I design review standards. In addition, the design standards described below apply to all uses.

1. ~~Residential style~~ Each building ~~with~~ shall include a single story porch on the front, and on the side where it abuts a street. The porch shall have a minimum area of 25 square feet, with a minimum depth of five feet.

2. New sidewalk construction shall be allowed to match the historical sidewalk standards in this zone.

3. Off-street parking shall not be located between the building and a public or private street, except alleys; parking areas shall be located behind, under, or on the side of the building.

4. Garages shall not extend any closer to the street than the street-facing facade of the building~~house~~.

5. There shall be no illuminated outdoor advertising on accessory buildings, equipment, or vending machines

6. These design standards, subsections (B)(1) through (5) of this section, shall not apply to public facilities such as reservoirs, water towers, treatment plants, fire stations, pump stations, power transmission facilities, etc. It is recognized that many of these facilities, due to their functional requirements, cannot readily be configured to meet these design standards. However, attempts shall be made to make the design sympathetic to surrounding properties through compatible architecture, enhanced landscaping, setbacks, buffers, and other reasonable means. (Ord. 1515, 2005; Ord. 1547, 2007; Ord. 1565, 2008; Ord. 1675 § 50, 2018; Ord. 1736 § 1 (Exh. A), 2022)

59.080 ADDITIONAL USE REQUIREMENTS

In addition to all other provisions of this section, the following additional requirements may apply:

A. Permitted commercial and other non-residential uses may only be open from 6:00 a.m. to 10:00 p.m. and are subject to the noise provisions of Chapter 55 CDC.

B. Exterior business activity shall not take place beyond the rear wall of the building when the subject property abuts a residential district, except for parking and refuse storage. Refuse storage must be buffered or enclosed and may not abut a property line that adjoins a residential zone. (Ord. 1515, 2005; Ord. 1547, 2007; Ord. 1614 § 11, 2013)

59.090 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1515, 2005; Ord. 1547, 2007; Ord. 1636 § 42, 2014)

59.100 OTHER APPLICABLE DEVELOPMENT STANDARDS

The following standards apply to all development including permitted uses:

1. Chapter 28 CDC, Willamette and Tualatin River Protection.

2. Chapter 36 CDC, Manufactured Homes.

3. Chapter 32 CDC, Water Resource Area Protection.

4. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.

5. Chapter 35 CDC, Temporary Structures and Uses.

6. Chapter 37 CDC, Home Occupations.

7. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.

8. Chapter 41 CDC, Building Height, Structures on Steep Lots, Exceptions.

9. Chapter 42 CDC, Clear Vision Areas.

10. Chapter 44 CDC, Fences.

11. Chapter 48 CDC, Access, Egress and Circulation.

12. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas, except for the provisions of CDC 46.140, apply to all uses.

13. Chapter 55 CDC, Design Review.

14. Chapter 54 CDC, Landscaping.

15. Chapter 53 CDC, Sidewalk Use. (Ord. 1547, 2007; Ord. 1614 § 12, 2013; Ord. 1675 § 49, 2018)

Chapter 60

CONDITIONAL USES

Commentary:

Only one minor change is proposed to the approval standards in Section 60.070. Refer to the commentary in that section.

Sections:

60.010 PURPOSE
60.030 ADMINISTRATION AND APPROVAL PROCESS
60.040 TIME LIMIT ON A CONDITIONAL USE APPROVAL
60.050 BUILDING PERMITS FOR AN APPROVED CONDITIONAL USE
60.060 APPLICATION
60.070 APPROVAL STANDARDS AND CONDITIONS
60.080 SITE PLAN AND MAP
60.090 ADDITIONAL CRITERIA FOR TRANSPORTATION FACILITIES (TYPE II)
60.100 ADDITIONAL CRITERIA FOR SCHOOLS AND OTHER GOVERNMENT FACILITIES

60.010 PURPOSE

The purpose of this chapter is to provide standards and procedures under which conditional uses may be permitted, enlarged, or altered if the site is appropriate and if other conditions can be met. (Ord. 1589 § 1 (Exh. A), 2010)

60.030 ADMINISTRATION AND APPROVAL PROCESS

A. Conditional use applications 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).

B. All approved conditional use applications in new buildings, or buildings with a major modification, shall be subject to design review under the provisions of Chapter 55 CDC, and in the manner set forth in CDC 99.060(B).

1. Except where stated otherwise in the base zone requirements of other applicable development standards.

C. All approved conditional use applications within existing buildings shall not be subject to design review. (Ord. 1635 § 28, 2014; Ord. 1736 § 1 (Exh. A), 2022)

60.040 TIME LIMIT ON A CONDITIONAL USE APPROVAL

Approval of a conditional use that required a design review shall be subject to the time limitations set forth in CDC 55.040. Approval of a conditional use that did not require design review shall be void unless either the use is commenced or an extension is granted per CDC 99.325 within three years of the approval. (Ord. 1408, 1998; Ord. 1589 § 1 (Exh. A), 2010; Ord. 1604 § 61, 2011)

60.050 BUILDING PERMITS FOR AN APPROVED CONDITIONAL USE

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. (Ord. 1622 § 21, 2014)

60.060 APPLICATION

A. A conditional use application shall be initiated by the property owner or the owner's authorized agent.

B. A prerequisite to the filing of an application is a pre-application conference at which time the Director shall explain the requirements and provide the appropriate forms as specified in CDC 99.030(B) and (C).

C. A prerequisite to the filing of an application is a meeting with the respective City-recognized neighborhood association, per CDC 99.038, at which time the applicant will present their proposal and receive comments.

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;

2. A site plan as provided by CDC 60.080; and

3. If site modification or construction is proposed, a storm detention and treatment plan and narrative pursuant to CDC 92.010(E).

One original application form must be submitted. One copy at the original scale and one copy reduced to 11 inches by 17 inches or smaller of all drawings and plans must be submitted. One copy 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 Community Development Department.

E. The applicant shall pay the requisite fee. (Ord. 1401, 1997; Ord. 1442, 1999; Ord. 1621 § 25, 2014; Ord. 1622 § 16, 2014; Ord. 1662 § 13, 2017)

60.070 APPROVAL STANDARDS AND CONDITIONS

Commentary:

Language has been added to Criterion (A)(4) to clarify requirements regarding adequate public facilities. This language was removed from the definition of "adequate public facilities in CDC Chapter 2, in order to avoid including standards in a definition (which can often be overlooked). The requirement is more useful as an approval criterion for land use applications (Design Review, Conditional Use, and Land Division), rather than in a definition.

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.

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 produce a facility that provides an overall benefit to the City.

4. Adequate public facilities will be available to provide service to the property at the time of occupancy. In situations where the level-of-service or volume-to-capacity performance standard for an affected City or State roadway is currently failing or projected to fail to meet the standard, and an improvement project is not programmed, the development shall avoid further degradation of the affected transportation facility. Mitigation must be provided to bring the facility performance standard to existing conditions at the time of occupancy.

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 and CDC 92.010(E) are met, if applicable.

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

B. An approved conditional use or enlargement or alteration of an existing conditional use shall be subject to the development review provisions set forth in Chapter 55 CDC.

C. The Planning Commission may impose conditions on its approval of a conditional use which it finds are necessary to assure the use is compatible with other uses in the vicinity. These conditions may include, but are not limited to, the following:

1. Limiting the hours, days, place, and manner of operation.

2. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor, and dust.

3. Requiring additional setback areas, lot area, or lot depth, or width.

4. Limiting the building height, size or lot coverage, or location on the site.

5. Designating the size, number, location and design of vehicle access points.

6. Requiring street right-of-way to be dedicated and the street to be improved including all steps necessary to address future street improvements identified in the adopted Transportation System Plan.

7. Requiring participation in making the intersection improvement or improvements identified in the Transportation System Plan when a traffic analysis (compiled as an element of a conditional use application for the property) indicates the application should contribute toward.

8. Requiring landscaping, screening, drainage, and surfacing of parking and loading areas.

9. Limiting the number, size, location, height, and lighting of signs.

10. Limiting or setting standards for the location and intensity of outdoor lighting.

11. Requiring berming, screening, or landscaping and the establishment of standards for their installation and maintenance.

12. Requiring and designating the size, height, location, and materials for fences.

13. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, and drainage areas.

D. Aggregate extraction uses shall also be subject to the provisions of ORS 541.605.

E. The Historic Review Board shall review an application for a conditional use, or to enlarge a conditional use on a property designated as a historic resource, based on findings of fact that the use will:

1. Preserve or improve a historic resource which would probably not be preserved or improved otherwise; and

2. Utilize existing structures rather than new structures. (Ord. 1291, 1987; Ord. 1408, 1998; Ord. 1544, 2007; Ord. 1614 § 13, 2013; Ord. 1655 § 7, 2016; Ord. 1662 § 14, 2017)

60.080 SITE PLAN AND MAP

A. All site plans and maps shall include the name, address, and telephone number of the applicant, the scale of the site plan, north arrow, and a vicinity map.

B. The applicant shall submit a site plan drawn to an appropriate scale (in order of preference, one inch equals 10 feet to one inch equals 30 feet) which contains the following information:

1. The subdivision name, block, and lot number or the section, township, range, and tax lot number.

2. The lot or parcel boundaries, dimensions, and gross area.

3. The applicant's property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development to the adjacent property and development.

4. The location, dimensions, and names of all existing and platted streets and other public ways and easements on adjacent property and on the site.

5. The location, dimensions, and setback distances of all:

   a. Existing structures, improvements, utilities, and drainage facilities on adjoining properties;

   b. Existing structures, improvements, utilities, and drainage facilities to remain on the site; and

   c. Proposed structures or changes to existing structures, improvements, utilities, and drainage facilities.

6. The existing and proposed dimensions of:

   a. The entrances and exits to the site;

   b. The parking and circulation areas;

   c. Loading and service areas for waste disposal, loading and delivery;

   d. Pedestrian and bicycle circulation area;

   e. On-site outdoor recreation spaces and common areas; and

   f. Above-ground utilities.

7. The location of areas to be landscaped and the proposed landscape plan.

8. The location of all trees having a six-inch caliper at a height of five feet.

C. The applicant shall submit the site plan on a map showing two-foot contours up to 20 percent grade and 10-foot contours on grades above 20 percent. (Ord. 1636 § 43, 2014)

60.090 ADDITIONAL CRITERIA FOR TRANSPORTATION FACILITIES (TYPE II)

A. Construction, reconstruction, or widening of highways, roads, bridges or other transportation facilities that are (1) not designated in the adopted West Linn Transportation System Plan ("TSP") or (2) not designed and constructed as part of an approved, active, development order are allowed in all zoning districts subject to the conditional use and all other applicable provisions of the CDC and satisfaction of all of the following criteria:

1. The project and its design are consistent with West Linn's adopted TSP, with the State Transportation Planning Rule (OAR 660-012), and with the adopted Regional Transportation Plan (RTP).

2. The project design is compatible with abutting land uses in regard to noise generation and public safety and is consistent with the applicable zoning and development standards and criteria for the abutting properties.

3. The project design minimizes environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities, and a site with fewer environmental impacts is not reasonably available.

4. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.

5. The project includes provisions for bicycle and pedestrian access and circulation consistent with the comprehensive plan, the requirements of this chapter, and the TSP.

B. State transportation system facility or improvement projects. The State Department of Transportation ("ODOT") shall provide a narrative statement with the application demonstrating compliance with all of the criteria and standards in subsections (A)(1) through (5) of this section. Where applicable, an environmental impact statement or environmental assessment may be used to address one or more of these criteria.

C. Proposal inconsistent with TSP/TPR. If the City determines that the proposed use or activity or its design is inconsistent with the TSP or TPR, then the applicant shall apply for and obtain a plan and/or zoning amendment prior to or in conjunction with conditional use permit approval. (Ord. 1584, 2008; Ord. 1650 § 1 (Exh. A), 2016)

60.100 ADDITIONAL CRITERIA FOR SCHOOLS AND OTHER GOVERNMENT FACILITIES

Schools and other government facilities that attract a regular and significant volume of users shall, to the greatest extent possible, be centrally located relative to the majority of the population that they will serve and be serviceable by sidewalks and bike routes/lanes. Police and fire stations shall meet these standards to the greatest extent possible but it is acknowledged that access to arterials remains a key locational determinant for those uses. (Ord. 1590 § 1, 2009)

Chapter 85

LAND DIVISIONS – GENERAL PROVISIONS

Commentary:

This chapter contains requirements for land divisions. Many of the requirements—particularly the approval criteria—are discretionary and need to be revised to be clear and objective when applied to residential development.

See additional commentary in Sections 85.030, .170, and .200.

Sections:

85.010 PURPOSE
85.020 SCOPE – CONFORMITY REQUIRED
85.030 SALE OR NEGOTIATION TO SELL LOT OR PARCEL PRIOR TO APPROVAL OF TENTATIVE PLAN
85.040 *REPEALED*
85.050 APPROVAL REQUIRED BEFORE CREATING STREET OR ROAD TO PARTITION LAND
85.060 INCOMPLETE APPLICATIONS – DECISION-MAKING PERIOD
85.070 ADMINISTRATION AND APPROVAL PROCESS
85.080 SUBSTANTIAL DEVIATION FROM APPROVED PLAN PROHIBITED
85.085 SUBDIVISION/PARTITION AMENDMENT TRIGGER
85.090 EXPIRATION OR EXTENSION OF APPROVAL
85.100 NON-COMPLIANCE – BOND
85.110 STAGED DEVELOPMENT
85.120 PARTIAL DEVELOPMENT
85.130 LAND DIVISION APPLICATION IN CONJUNCTION WITH OTHER LAND USE APPLICATIONS
85.140 PRE-APPLICATION CONFERENCE REQUIRED
85.150 APPLICATION – TENTATIVE PLAN
85.160 SUBMITTAL REQUIREMENTS FOR TENTATIVE PLAN
85.170 SUPPLEMENTAL SUBMITTAL REQUIREMENTS FOR TENTATIVE SUBDIVISION OR PARTITION PLAN
85.180 REDIVISION PLAN REQUIREMENT
85.190 ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS
85.200 APPROVAL CRITERIA
85.210 PROPERTY LINE ADJUSTMENTS – APPROVAL STANDARDS

85.010 PURPOSE

A. The purpose of the land division provisions of this code is to implement the Comprehensive Plan; to provide rules and standards governing the approval of plats of subdivisions (four lots or more) and partitions (three lots or fewer); to help direct the development pattern; to lessen congestion in the streets; to increase street safety; to efficiently provide water, sewage, and storm drainage service; and to conserve energy resources.

B. The purpose is further defined as follows:

1. To improve our sense of neighborhood and community and increase opportunities for socialization.

2. To comply with the State's Transportation Planning Rule (TPR), which seeks to encourage alternate forms of transportation and reduce reliance upon the private automobile and vehicle miles traveled by increasing accessibility within and between subdivisions and neighborhoods. This may be accomplished by designing an easily understood, interconnected pattern of streets, bicycle and foot paths, and accommodation of transit facilities. Cul-de-sacs are to be discouraged unless site conditions dictate otherwise.

3. To reduce pedestrian/vehicle conflicts and create a safe and attractive environment for pedestrians and bicyclists.

4. To protect natural resource areas such as drainageways, Willamette and Tualatin River greenways, creeks, habitat areas, and wooded areas as required by other provisions of this code or by the layout of streets and graded areas so as to minimize their disturbance.

5. To protect the natural features and topography by minimizing grading and site disturbance and by requiring proper erosion control techniques.

6. To arrange the lots and streets so as to minimize nuisance conditions such as glare, noise, and vibration.

7. To maximize passive solar heating benefits by orienting the streets on an east-to-west axis which increases exposure to the sun.

8. To arrange for the efficient layout of utilities and infrastructure as well as their extension to adjacent properties in a manner consistent with either adopted utility plans or sound engineering practices.

9. To arrange lots and roads to create reasonably buildable lots and acceptable driveway grades.

10. To encourage the arrangement of increased densities and smaller lots in proximity to needed services and schools as well as transportation corridors so as to reduce vehicle miles traveled and to encourage alternate modes of travel.

11. To encourage design experimentation and creativity.

12. To arrange for the mitigation of impacts generated by new development. These impacts include increased automobile, foot, and bicycle traffic. These impacts are to be mitigated at the developer's cost, by the provision of streets, sidewalks, bicycle and foot paths, and traffic control devices within, contiguous to, and nearby the development site. Similarly, increased demand on local infrastructure such as water lines, sanitary sewer lines, and storm drainage and detention facilities, should be offset by improving existing facilities or providing new ones. (Ord. 1636 § 49, 2014; Ord. 1647 § 7, 2016)

85.020 SCOPE – CONFORMITY REQUIRED

A. This division shall apply to all subdivisions and partitions within the City limits of West Linn.

B. No person shall subdivide or create a partition except in conformity with the provisions of this code and Chapter 92 ORS. Chapter 92 ORS states that all partitions and subdivisions of land require a final plat to be prepared by a registered professional land surveyor; all corners must be monumented, the partition or subdivision plat must be approved by the City and County surveyor, as appropriate, and recorded with the County recorder.

C. No building permit shall be issued for any parcel or lot which was created by subdivision or partition if it is not approved and in conformity with the provisions of this code.

D. No excavation of land or construction of any public or private improvement shall take place or be commenced except in conformity with the provisions of this code. (Ord. 1636 § 50, 2014)

85.030 SALE OR NEGOTIATION TO SELL LOT OR PARCEL PRIOR TO APPROVAL OF TENTATIVE PLAN

Commentary:

Amendments in this section are related to House Bill 2306, which was passed by the state legislature in 2019. HB 2306 (encoded in state statute as ORS 445.175) prohibits any local government from denying a building permit for a residential dwelling in a residential subdivision in which the infrastructure is "substantially complete."

Specifically, building permits cannot be denied for failing to satisfy conditions of a development IF an acceptable financial guarantee has been secured AND the following systems meet applicable standards, unless agreed otherwise: water, fire hydrants, sewage, storm drainage, curbs, and streets and street-signs for emergency response purposes. Jurisdictions retain their authority to deny occupancy permits if full public improvements (including sidewalks, street trees, street lighting, etc.) are not complete. The purpose of the bill was to help expedite the permitting process for residential subdivisions.

The proposed amendment below refers to the new requirements in ORS 445.175 and allows building permits to be issued upon “substantial completion”.

See related amendments in CDC Chapters 89 and 91.

A. No person shall sell any lot in any subdivision to which approval is required until such approval is obtained. No person shall negotiate to sell any lot in a subdivision until the tentative plan has been approved.

B. A person may negotiate to sell any parcel in a partition for which approval of a tentative plan is required, but shall not sell a parcel prior to approval.

C. No building permits will be issued for tentatively approved lots or parcels until the final plat is recorded or substantial completion of conditions of development as defined in ORS 455.175 and a financial guarantee is provided per CDC Chapter 91. ~~The final plat must be recorded before permits will be issued~~. (Ord. 1636 § 51, 2014)

85.040 SALE OF LOTS PROHIBITED UNTIL SUBDIVISION PLAT IS RECORDED

Repealed by Ord. 1636.

85.050 APPROVAL REQUIRED BEFORE CREATING STREET OR ROAD TO PARTITION LAND

A. No person shall create a street or road for the purpose of partitioning an area or tract of land without approval by the approval authority under the provisions of CDC 99.060(A) and (B).

B. No instrument dedicating land to public use shall be accepted for recording unless such instrument bears the approval of the Planning Director or City Engineer, as applicable, under the provisions of CDC 99.060(A) and (B), procedures for decision-making. (Ord. 1382, 1995)

85.060 INCOMPLETE APPLICATIONS – DECISION-MAKING PERIOD

A. The Director shall not accept incomplete applications; however, if an application for approval of a tentative plan for a subdivision or partition is incomplete, the Planning Director shall notify the applicant of the fact within 30 days of the receipt of the application and allow the applicant to provide the additional required information.

B. The approval authority shall take final action on an application for approval of a tentative plan for a subdivision or partition within 120 days after the application is found to be complete.

C. If action is not taken within the 120-day period, the applicant may apply to the circuit court for a writ of mandamus to compel the issuance of approval. (Ord. 1382, 1995)

85.070 ADMINISTRATION AND APPROVAL PROCESS

A. The application shall be filed by the record owner(s) of the property or by an authorized agent who has a letter of authorization from the property owners of record. The burden of proof will be upon the applicant to demonstrate the validity of the ownership, if challenged.

B. Action on the application for a tentative plan shall be as provided by Chapter 99 CDC.

1. The Planning Director shall approve, deny, or approve with conditions an application for a partition subject to the provisions of CDC 85.200, 99.060(A), and 99.110. The Director's decision may be appealed to the City Council as provided by CDC 99.240(A).

2. The Planning Commission shall approve, deny, or approve with conditions an application for a tentative plan for a subdivision subject to the provisions of CDC 85.200, 99.060(B), and 99.110. A petition for review of the Planning Commission's decision may be filed as provided by CDC 99.240.

3. Action on the final plat shall be ministerial and taken by the Planning Director and City Engineer, and the Planning Director and City Engineer shall approve a final subdivision or partition plat upon the finding that the approval criteria set forth in CDC 89.050 have been satisfied. The Planning Director's and City Engineer's decision may be appealed to the Planning Commission by the applicant, and the Planning Commission shall make its decision based on testimony from the applicant and the Director. (Ord. 1474, 2001)

85.080 SUBSTANTIAL DEVIATION FROM APPROVED PLAN PROHIBITED

A. Approval of the tentative plan shall require that the final plat be in substantial conformance. Only such changes in the plat or map as are necessary for compliance with the terms of its approval, changes appropriate to meet accepted engineering practices due to grades or site conditions, or changes to satisfy legislative requirements are appropriate; however

B. Approval of the tentative plan for the proposed subdivision or the partition shall not constitute final acceptance of the plat of the proposed subdivision or partition for recording.

85.085 SUBDIVISION/PARTITION AMENDMENT TRIGGER

Amendments to subdivision/partitions shall be required when 10 percent or more of the housing type changes (e.g., from single-family units to multi-family units) from the tentatively approved plan, or when there is more than a 10 percent change in the number of units, or when the layout of streets and lots significantly changes. (Ord. 1408, 1998)

85.090 EXPIRATION OR EXTENSION OF APPROVAL

The final plat map shall be submitted to the Planning Director and recorded with the County within three years from the date of approval of the tentative plan, or as approved under CDC 99.325. If the final plat is not recorded by that time, the approval expires. (Ord. 1408, 1998; Ord. 1589 § 1 (Exh. A), 2010)

85.100 NON-COMPLIANCE – BOND

A. Non-compliance with an approved final plat shall be a violation of this code.

B. The development and associated conditions of approval shall be completed in accordance with the approved final plat before any occupancy permits will be issued except that when the City Engineer or Planning Director determines that immediate execution of any feature of an approved final plat is impractical due to climatic conditions, unavailability of materials, or other temporary condition, the Planning Director or City Engineer shall, as a precondition of the issuance of a required permit, require a cashier's check, cash, or other surety (generally 125 percent of an engineer's estimated cost of improvements), to secure execution of the feature at a time certain not to exceed one year.

85.110 STAGED DEVELOPMENT

The applicant may elect to develop the site in stages. Staged development shall be subject to the provisions of CDC 99.125. However, notwithstanding the provisions of CDC 99.125, in no case shall the time period for final platting and recording all stages with the County be greater than five years without refiling the application. (Ord. 1589 § 1 (Exh. A), 2010)

85.120 PARTIAL DEVELOPMENT

Where the tentative subdivision or partition plan is limited to only part of the potential development site, ~~the approval authority may require that an applicant submit a tentative layout for the streets for the unsubdivided portion. A tentative street plan is required for sites where~~ and the unsubdivided portion of the property is greater than 300 percent of the minimum lot size allowed in the underlying zoning district, a tentative layout for the streets for the unsubdivided portion shall be required. (Ord. 1650 § 1 (Exh. A), 2016)

85.130 LAND DIVISION APPLICATION IN CONJUNCTION WITH OTHER LAND USE APPLICATIONS

As provided by CDC 99.070, a land division application filed under this code may be heard concurrently with another application, upon applicant's request.

85.140 PRE-APPLICATION CONFERENCE REQUIRED

A. An applicant shall participate in a pre-application conference with staff prior to the submission of a complete tentative plan.

B. The Planning staff shall explain the applicable plan policies, ordinance provisions, opportunities, and constraints which may be applicable to the site and type of proposed land division.

C. The City Engineering staff shall explain the public improvement requirements which may be applicable to the site and type of proposed land division, including potential for the applicant to apply for a waiver of street improvements. (Ord. 1544, 2007)

85.150 APPLICATION – TENTATIVE PLAN

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

1. The completed application form(s).

2. Copies of the tentative plan and supplemental drawings shall include one copy at the original scale plus one copy 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 Community Development Department.

3. A narrative explaining all aspects of land division per CDC 85.200.

B. The applicant shall pay the requisite fee. (Ord. 1401, 1997; Ord. 1408, 1998; Ord. 1442, 1999; Ord. 1613 § 19, 2013; Ord. 1621 § 25, 2014; Ord. 1622 § 19, 2014)

85.160 SUBMITTAL REQUIREMENTS FOR TENTATIVE PLAN

A. A City-wide map shall identify the site. A vicinity map covering one-quarter-mile radius from the development site shall be provided in the application showing existing subdivisions, streets, and unsubdivided land ownerships adjacent to the proposed subdivision and showing how proposed streets and utilities may be extended to connect to existing streets and utilities.

B. The tentative subdivision plan shall be prepared by a registered civil engineer and/or a licensed land surveyor. A stamp and signature of the engineer or surveyor shall be included on the tentative subdivision plan. A tentative minor partition plan (three lots or less) is only required to be drawn to scale and does not have to be prepared by an engineer or surveyor.

C. The tentative plan of a subdivision or partition shall be drawn at a scale not smaller than one inch equals 100 feet, or, for areas over 100 acres, one inch equals 200 feet.

D. The following general information shall be shown on the tentative plan of subdivision or partition:

1. Proposed name of the subdivision and streets; these names shall not duplicate nor resemble the name of any other subdivision or street in the City and shall be determined by the City Manager or designee. Street names should be easily spelled, pronounced, and of limited length. All new street names must, to the greatest extent possible, respect and be representative of the surrounding geography and existing street names. Street names should consider any prominent historical City figures or neighborhood themes that exist. Subdivision street names may not reference names of the builder or developer.

2. Date, north arrow, scale of drawing, and graphic bar scale.

3. Appropriate identification clearly stating the drawing as a tentative plan.

4. Location of the proposed division of land, with a tie to the City coordinate system, where established, and a description sufficient to define its location and boundaries, and a legal description of the tract boundaries.

5. Names and addresses of the owner, developer, and engineer or surveyor.

E. The following existing conditions shall be shown on the tentative plan of a subdivision or partition:

1. The location, widths, and names of all existing or platted streets and rights-of-way within or adjacent to the tract (within 50 feet), together with easements and other important features such as section lines, donation land claim corners, section corners, City boundary lines, and monuments.

2. Contour lines related to the U.S. Geological Survey datum or some other established benchmark, or other datum approved by the Planning Director and having the following minimum intervals:

a. Two-foot contour intervals for ground slopes less than 20 percent.

b. Five-foot contour intervals for ground slopes exceeding 20 percent.

3. The location of any control points that are the basis for the applicant's mapping.

4. The location, by survey, and direction of all watercourses and areas subject to periodic inundation or storm drainageway overflow or flooding, including boundaries of flood hazard areas as established by the U.S. Army Corps of Engineers or the City zoning ordinance.

5. Natural features such as rock outcroppings, wetlands tied by survey, wooded areas, heritage trees, and isolated trees (six-inch diameter at five feet above grade) identified by size, type, and location. All significant trees and tree clusters identified by the City Arborist using the criteria of CDC 55.100(B)(2), and all heritage trees, shall be delineated. Trees on non-Type I and II lands shall have their "dripline plus 10 feet" protected

area calculated per CDC 55.100(B)(2) and expressed in square feet, and also as a percentage of total non-Type I and II area.

6. Existing uses of the property, including location of all existing structures. Label all structures to remain on the property after platting.

7. Identify the size and location of existing sewers, water mains, culverts, drain pipes, gas, electric, and other utility lines within the site, and in the adjoining streets and property.

8. Zoning on and adjacent to the tract.

9. Existing uses to remain on the adjoining property and their scaled location.

10. The location of any existing bicycle or pedestrian ways.

11. The location of adjacent transit stops.

F. The following proposed improvements shall be shown on the tentative plan or supplemental drawings:

1. The street – street location, proposed name, right-of-way width, and approximate radius of curves of each proposed street and street grades. Proposed street names shall comply with the street naming method explained in CDC 85.200(A)(~~12~~15).

2. The type, method, and location of any erosion prevention and sediment control measures and/or facilities in accordance with the most current version of Clackamas County's *Erosion/Sedimentation Control Plans Technical Guidance Handbook*, which are necessary to prevent and control visible or measurable erosion as determined by the following criteria:

a. Deposition of soil, sand, dirt, dust, mud, rock, gravel, refuse, or any other organic or inorganic material exceeding one cubic foot in volume in a public right-of-way or public property, or into the City surface water management system either by direct deposit, dropping, discharge, or as a result of erosion; or

b. Flow of water over bare soils, turbid or sediment-laden flows, or evidence of on-site erosion such as rivulets or bare soil slopes, where the flow of water is not filtered or captured on the development site; or

c. Earth slides, mud flows, land slumping, slope failure, or other earth movement that is likely to leave the property of origin.

Additional on-site measures may later be required if original measures prove to be inadequate in meeting these attainment standards. For the purposes of this code, "one cubic foot in volume" is defined to include the volume of material, wet or dry, at the time of deposition and includes any water of a discolored or turbid nature.

3. Any proposed infrastructure improvements that address those identified in the 2016 City of West Linn Transportation System Plan.

4. Any proposed bicycle or pedestrian paths. The location of proposed transit stops.

5. Any easement(s) – location, width, and purpose of the easement(s).

6. The configuration including location and approximate dimensions and area of each lot or parcel, and in the case of a subdivision, the proposed lot and block number.

7. A street tree planting plan and schedule approved by the Parks Department.

8. Any land area to be dedicated to the City or put in common ownership.

9. Phase boundaries shall be shown. (Ord. 1382, 1995; Ord. 1403, 1997; Ord. 1544, 2007; Ord. 1565, 2008; Ord. 1636 §§ 53, 54, 2014)

85.170 SUPPLEMENTAL SUBMITTAL REQUIREMENTS FOR TENTATIVE SUBDIVISION OR PARTITION PLAN

Commentary:

The current requirements for Traffic Impact Analysis (TIA) in subsection (B)(2) are discretionary. The proposed approach is to establish a two-track system, with clear and objective TIA requirements for applications that include residential dwellings. Applicants would also have the option of opting into the discretionary TIA path. The proposed new TIA requirements include more specific requirements for the scope and geography of the analysis and more specific approval criteria. The City would need to provide clear direction regarding the required elements and level analysis for the TIA as part of the pre-application process.

The following information shall be submitted to supplement the tentative subdivision plan:

A. General.

1. Narrative stating how the plan meets each of the applicable approval criteria and each subsection below.

2. Statement or affidavit of ownership of the tract (County Assessor's map and tax lot number).

3. A legal description of the tract.

4. If the project is intended to be phased, then such a proposal shall be submitted at this time with drawing and explanation as to when each phase will occur and which lots will be in each phase.

5. Where the land to be subdivided or partitioned contains only a part of the contiguous land owned by the developer, the Commission or Planning Director, as applicable, shall require a master plan of the remaining portion illustrating how the remainder of the property may suitably be subdivided.

6. Where the proposed subdivision site includes hillsides, as defined in CDC 02.030 Type I and II lands, or any lands identified as a hazard site in the West Linn Comprehensive Inventory Plan Report, the requirements for erosion control as described in CDC 85.160(F)(2) shall be addressed in a narrative.

7. Table and calculations showing the allowable number of lots under the zone and how many lots are proposed.

8. Map and table showing square footage of site comprising slopes by various classifications as identified in CDC 55.110(B)(3).

B. Transportation.

1. Centerline profiles with extensions shall be provided beyond the limits of the proposed subdivision to the point where grades meet, showing the finished grade of streets and the nature and extent of street construction. Where street connections are not proposed within or beyond the limits of the proposed subdivision on blocks exceeding 330 feet, or for cul-de-sacs, the tentative plat or partition shall indicate the location of easements that provide connectivity for bicycle and pedestrian use to accessible public rights-of-way.

2. Traffic Impact Analysis (TIA).

a. Purpose. The purpose of this section of the code is to implement Section 660-012-0045(2)(e) of the State Transportation Planning Rule that requires the City to adopt a process to apply conditions to

development proposals in order to minimize adverse impacts to and protect transportation facilities. This section establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Analysis must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Study; and who is qualified to prepare the study.

b. Typical average daily trips. The latest edition of the Trip Generation manual, published by the Institute of Transportation Engineers (ITE) shall be used as the standards by which to gauge average daily vehicle trips.

c. Transportation Impact Analysis (No Dwellings)~~When required~~. For development applications that do not propose any new dwelling units, a~~A~~ Traffic Impact Analysis may be required to be submitted to the City with a land use application, when the following conditions apply:

1) The development application involves one or more of the following actions:

(A) A change in zoning or a plan amendment designation; or

(B) Any proposed development or land use action that ODOT states may have operational or safety concerns along a State highway; and

(C) The development shall cause one or more of the following effects, which can be determined by field counts, site observation, traffic impact analysis or study, field measurements, crash history, Institute of Transportation Engineers Trip Generation manual; and information and studies provided by the local reviewing jurisdiction and/or ODOT:

(1) An increase in site traffic volume generation by 250 average daily trips (ADT) or more (or as required by the City Engineer); or

(2) An increase in use of adjacent streets by vehicles exceeding the 20,000-pound gross vehicle weights by 10 vehicles or more per day; or

(3) The location of the access driveway does not meet minimum intersection sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard; or

(4) The location of the access driveway does not meet the access spacing standard of the roadway on which the driveway is located; or

(5) A change in internal traffic patterns that may cause safety problems, such as backup onto the highway or traffic crashes in the approach area.

d. Transportation Impact Analysis (Dwellings). For development applications that propose new dwelling units, an applicant must submit a transportation impact analysis unless the application is exempt from this requirement pursuant to subsection (B)(2)(d)(6) of this section. Failure to submit the analysis will result in an incomplete application. The applicant shall prepare the analysis in accordance with the following:

1) At a minimum, the analysis area must include:

(A) All points of access onto the public street system;

(B) All intersections of Arterials, Collectors, and Neighborhood Routes within 1000 linear feet from all points of access onto the public street system, and

(C) All intersections where the traffic generated by the proposed development exceeds five (5) percent of existing a.m. or p.m. peak hour total intersection traffic volumes. Trip generation shall be determined by using Institute of Transportation Engineers Trip Generation Manual (5th edition).

2) The analysis must analyze existing conditions and projected conditions upon completion of the proposed development.

3) The analysis must be performed for the weekday a.m. peak hour (one hour between 7:00 a.m. and 9:00 a.m.) and p.m. peak hour (one hour between 4:00 p.m. and 6:00 p.m.). Analysis of other time periods may be required for uses that generate their highest traffic volumes at other times of the day or on weekends.

4) The analysis must demonstrate that the transportation impacts from the proposed development will comply with the City's level-of-service and average daily traffic standards and the Oregon Department of Transportation's mobility standard.

5) If the analysis identifies level-of-service conditions less than the minimum standard established in the 2016 City of West Linn Transportation System Plan, or fails to demonstrate that average daily trips (ADT) on existing or proposed streets will meet the ADT standards established in the 2016 Transportation System Plan or fails to meet the Oregon Department of Transportation's mobility standard, the applicant shall propose improvements and funding strategies for mitigating identified problems or deficiencies that will be implemented concurrent with the proposed development.

6) A transportation impact study is not required under this section if:

(A) The proposed development will generate no more than 250 average daily trips as determined by using the Institute of Transportation Engineers Trip Generation Manual (5th edition); or

(B) The proposed development completed a transportation impact within the past five years and that study assessed the impact of the same or more dwelling units than proposed under the new land use action.

e. Transportation Impact Analysis (Dwellings—Discretionary Review). As an alternative to the process outlined in subsection (B)(2)(d) of this section, an applicant may choose to follow the process in subsection (B)(2)(c) of this section.

f~~d~~. Traffic impact analysis requirements.

1) Preparation. A Traffic Impact Analysis shall be prepared by a professional engineer qualified under OAR 734-051-0040. The City shall commission the traffic analysis and it will be paid for by the applicant.

2) Transportation Planning Rule compliance. See CDC 105.050(D), Transportation Planning Rule Compliance.

3) Pre-application conference. The applicant will meet with West Linn Public Works prior to submitting an application that requires a traffic impact application. This meeting will determine the required elements of the TIA and the level of analysis expected. The required elements and level analysis for the TIA shall be provided in writing to the applicant.

4) Scope and Analysis Assumptions. Prior to report preparation, the applicant shall submit the proposed scope and analysis assumptions of the TIA. The City Engineer shall determine whether the scope and analysis assumptions are adequate.

~~g~~e. Approval criteria (Discretionary Review). The following criteria apply to development applications that do not propose any new dwelling units, or for applications that include dwellings and that elect to use the TIA process outlined in subsection (B)(2)(d) of this section.

1) Criteria. When a Traffic Impact Analysis is required, approval of the development proposal requires satisfaction of the following criteria:

(A) The Traffic Impact Analysis was prepared by a professional traffic engineer qualified under OAR 734-051-0040; and

(B) If the proposed development shall cause one or more of the effects in subsection (B)(2) of this section, or other traffic hazard or negative impact to a transportation facility, the Traffic Impact Analysis includes mitigation measures that meet the City's level of service and are satisfactory to the City Engineer, and ODOT when applicable; and

(C) The proposed site design and traffic and circulation design and facilities, for all transportation modes, including any mitigation measures, are designed to:

(1) Have the least negative impact on all applicable transportation facilities; and

(2) Accommodate and encourage non-motor vehicular modes of transportation to the extent practicable; and

(3) Make the most efficient use of land and public facilities as practicable; and

(4) Provide the most direct, safe and convenient routes practicable between on-site destinations, and between on-site and off-site destinations; and

(5) Otherwise comply with applicable requirements of the City of West Linn Community Development Code.

h. Approval criteria (Dwellings). The following criteria apply to development applications that include new dwelling units, unless the applicant elects to use the TIA process outlined in subsection (B)(2)(d) of this section.

1) Criteria. Approval of the development proposal requires satisfaction of the following criteria:

(A) The Traffic Impact Analysis was prepared by a professional traffic engineer qualified under OAR 734-051-0040; and

(B) The transportation impacts from the proposed development will comply with the City's level-of-service and average daily traffic standards and the Oregon Department of Transportation's mobility standard, based on City-approved trip generation, assignment, and distribution calculations.

(C) If mitigation is required, pursuant to subsection (B)(2)(d)(5) the proposed mitigation measures and funding strategies meet the City's level of service standards. If proposed mitigation requires improvements within City or ODOT rights-of way, the design has been reviewed and approved by the City Engineer, and ODOT when applicable.

(D) The proposed traffic and circulation design and facilities for all transportation modes, including any mitigation measures, comply with applicable requirements of the City of West Linn Community Development Code.

i~~f~~. Conditions of approval (Discretionary Review). The following applies to development applications that do not propose any new dwelling units, or for applications that include dwellings and that elect to use

the TIA process outlined in subsection (B)(2)(d) of this section. The City may deny, approve, or approve the proposal with appropriate conditions.

1) Dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways shall be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.

2) Improvements such as paving, curbing, installation or contribution to traffic signals, or construction of sidewalks, bikeways, accessways, paths, or streets that serve the proposed use where the existing transportation system may be burdened by the proposed use may be required.

j. Conditions of approval (Dwellings). The following applies to development applications that include new dwelling units, unless the applicant elects to use the TIA process outlined in subsection (B)(2)(d) of this section. The City may deny, approve, or approve the proposal with conditions necessary to ensure compliance with the approval criteria in subsection (B)(2)(h) of this section. Conditions approval may include dedication of land and/or construction of streets, transit facilities, sidewalks, bikeways, paths, or accessways if necessary to achieve proposed mitigation measures, pursuant to subsection (B)(2)(d)(5) of this section. Facilities shall be constructed to applicable CDC standards and West Linn Public Works Design Standards.

C. Grading.

1. If areas are to be graded, a plan showing the location of cuts, fill, and retaining walls, and information on the character of soils, shall be provided. The grading plan shall show proposed and existing contours at intervals per CDC 85.160(E)(2).

2. The grading plan shall demonstrate that the proposed grading to accommodate roadway standards and create appropriate building sites is the minimum amount necessary.

3. The grading plan must identify proposed building sites and include tables and maps identifying acreage, location and type of development constraints due to site characteristics such as slope, drainage and geologic hazards. For Type I, II, and III lands (refer to definitions in Chapter 02 CDC), the applicant must provide a geologic report, with text, figures and attachments as needed to meet the industry standard of practice, prepared by a certified engineering geologist and/or a geotechnical professional engineer, that includes:

a. Site characteristics, geologic descriptions and a summary of the site investigation conducted;

b. Assessment of engineering geological conditions and factors;

c. Review of the City of West Linn's Natural Hazard Mitigation Plan and applicability to the site; and

d. Conclusions and recommendations focused on geologic constraints for the proposed land use or development activity, limitations and potential risks of development, recommendations for mitigation approaches and additional work needed at future development stages including further testing and monitoring.

D. Water.

1. A plan for domestic potable water supply lines and related water service facilities, such as reservoirs, etc., shall be prepared by a licensed engineer consistent with the adopted Comprehensive Water System Master Plan and most recently adopted updates and amendments.

2. Location and sizing of the water lines within the development and off-site extensions. Show on-site water line extensions in street stubouts to the edge of the site, or as needed to complete a loop in the system.

3. Adequate looping system of water lines to enhance water quality.

4. For all non-single-family developments, calculate fire flow demand of the site and demonstrate to the Fire Chief. Demonstrate to the City Engineer how the system can meet the demand.

Commentary:

The sewer requirements in subsections (E)(3)-(8) are repeated as approval criteria in CDC 85.200(G). Since this section is listing submittal requirements, not approval criteria, those requirements are proposed to be deleted.

Also, a new reference is added to the TVF&R Service Provider Permit is added as subsection (G). This is a requirement that TVF&R has instituted across their service area.

E. Sewer**.**

1. A plan prepared by a licensed engineer shall show how the proposal is consistent with the Sanitary Sewer Master Plan, Public Works Design Standards, and subsequent updates and amendments. Agreement with that plan must demonstrate how the sanitary sewer proposal will be accomplished and how it is efficient. The sewer system must be in the correct zone.

2. Sanitary sewer information will include plan view of the sanitary sewer lines, including manhole locations and depths. Show how each lot or parcel would be sewered.

~~3. Sanitary sewer lines shall be located in the public right-of-way, particularly the street, unless the applicant can demonstrate why the alternative location is necessary and meets accepted engineering standards.~~

~~4. Sanitary sewer line should be at a depth that can facilitate connection with down-system properties in an efficient manner.~~

~~5. The sanitary sewer line should be designed to minimize the amount of lineal feet in the system.~~

~~6. The sanitary sewer line shall minimize disturbance of natural areas and, in those cases where that is unavoidable, disturbance shall be mitigated pursuant to the appropriate chapters (e.g., Chapter 32 CDC, Water Resource Area Protection).~~

~~7. Sanitary sewer shall be extended or stubbed out to the next developable subdivision or a point in the street that allows for reasonable connection with adjacent or nearby properties.~~

~~8. The sanitary sewer system shall be built pursuant to Department of Environmental Quality (DEQ), City, and Tri-City Service District sewer standards. This report should be prepared by a licensed engineer, and the applicant must be able to demonstrate the ability to satisfy these submittal requirements or standards at the pre-construction phase.~~

F. Storm**.** A storm detention and treatment plan and narrative compliant with CDC 92.010(E) must be submitted for storm drainage and flood control including profiles of proposed drainageways with reference to the most recently adopted Storm Drainage Master Plan.

G. Service Provider Permit. A Tualatin Valley Fire & Rescue Service Provider Permit shall be provided.

(Ord. 1382, 1995; Ord. 1401, 1997; Ord. 1425, 1998; Ord. 1442, 1999; Ord. 1584, 2008; Ord. 1604 § 65, 2011; Ord. 1635 § 33, 2014; Ord. 1636 § 54, 2014; Ord. 1650 § 1 (Exh. A), 2016; Ord. 1662 § 15, 2017)

85.180 REDIVISION PLAN REQUIREMENT

A redivision plan shall be required for a partition or subdivision, where the property could be developed at a higher density, under existing/proposed zoning, if all services were available and adequate to serve the use.

A. The redivision plan is a sketch plan. A land survey and an engineering drawing are not required except where there are unique soil, topographic, or geologic conditions. Under the provisions of CDC 99.035, administrative procedures, the Planning Director may require additional information.

B. The applicant shall submit a topographic map based on available information and a subdivision layout in accordance with standards set forth in this chapter and the zoning district in which the property is located.

C. A building permit issued shall be for a specified future lot or parcel and the building shall meet the setback provisions of the zoning district in which the property is located.

D. The redivision plan is considered a guide. Its purpose is to assure the efficient use of land and orderly growth. At such time as the property owner applies to redivide the land, a different proposal may be submitted for approval provided it meets all of the requirements. The redivision plan is not binding on the applicant or the City at the time a formal application is submitted under this chapter.

E. The Planning Director shall approve the redivision plan in the manner set forth in CDC 99.060(A)(2), except that no notice shall be given. The applicant may appeal the Planning Director's decision as provided by CDC 99.240(A).

F. The Planning Director's decision shall be based on the following findings:

1. The redivision plan complies with the applicable requirements of this chapter and zoning district in which the property is located.

2. There are adequate water and sewage systems available for the proposed use. (Ord. 1636 § 55, 2014)

85.190 ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS

A. The Planning Director may require additional information as part of the application subject to the provisions of CDC 99.035(A).

B. The applicant may request a waiver of any requirements for the application subject to the provisions of CDC 99.035(B) and (C).

85.200 APPROVAL CRITERIA

Commentary:

Many of the approval criteria for land divisions include discretionary language, or refer to discretion by the City Planning Director or Engineer. Rather than creating a two-track system for residential/C&O and non-residential/discretionary standards, the proposed approach is to revise the criteria for all development to be clear and objective. Even for non-residential development (where discretion is allowed), the current criteria have been difficult for City staff to interpret and apply. So, staff's preference is to update the criteria to be more useful while also complying with state law.

The current subsection (A)(1) includes several paragraphs of narrative text that are difficult to parse as approval criteria. Most of these are proposed to be converted into purpose statements and guiding principles (which will not be reviewed for compliance). Most of the standards that implement these principles are already in subsequent sections of the criteria. Also, a new "Street Connections" standard is added as (A)(5), which requires the developer shall make all street connections identified in the Transportation System Plan that are within the boundaries of the project. This is consistent with current practice, but this would codify that requirement in a clear and objective manner.

Amendments to the remaining sections of CDC 85.200 are relatively straightforward (albeit extensive) and have been through initial review by the City Engineer. Discretionary language is either removed or revised, and exceptions to the standards are allowed only as part of a discretionary review (i.e., not as part of the C&O track).

No tentative subdivision or partition plan shall be approved unless adequate public facilities will be available to provide service to the partition or subdivision area prior to final plat approval and the Planning Commission or Planning Director, as applicable, finds that the following standards have been satisfied, or can be satisfied by condition of approval.

A. Streets.

1. ~~General~~Purpose and Guiding Principles. The purpose of these standards is to promote safe, efficient, and convenient options for walking, bicycling, and driving while accommodating access to individual properties, as needed, and access to transit. The following principles shall guide land division applications:

a. The location, width and grade of streets shall be considered in their relation to existing and planned streets, to the generalized or reasonable layout of streets on adjacent undeveloped lots or parcels, to topographical conditions, to public convenience and safety, to accommodate various types of transportation (automobile, bus, pedestrian, bicycle), and to the proposed use of land to be served by the streets.

b. The functional class of a street aids in defining the primary function and associated design standards for the facility. The hierarchy of the facilities within the network in regard to the type of traffic served (through or local trips), balance of function (providing access and/or capacity), and the level of use (generally measured in vehicles per day) are generally dictated by the functional class.

c. The street system shall assure an adequate traffic or circulation system with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried.

d. Streets should provide for the continuation, or the appropriate projection, of existing principal streets in surrounding areas and should not impede or adversely affect development of adjoining lands or access thereto.

e. To accomplish this, the emphasis should be upon a connected continuous pattern of local, collector, and arterial streets rather than discontinuous curvilinear streets and cul-de-sacs. Deviation from this pattern of connected streets should only be permitted in cases of extreme topographical challenges including excessive slopes (35 percent-plus), hazard areas, steep drainageways, wetlands, etc. In such cases, deviations may be allowed but the connected continuous pattern must be reestablished once the topographic challenge is passed. ~~Streets should be oriented with consideration of the sun, as site conditions allow, so that over 50 percent of the front building lines of homes are oriented within 30 degrees of an east-west axis.~~

2. All references in CDC 85.200 to the "adopted Transportation System Plan," "adopted TSP," or "TSP" shall refer to the City of West Linn's 2016 Transportation System Plan, as amended and updated.

3. In situations where the level-of-service or volume-to-capacity performance standard for an affected City or State roadway is currently failing or projected to fail to meet the standard, and an improvement project is not programmed, the development shall avoid further degradation of the affected transportation facility. Mitigation must be provided to bring the facility performance standard to existing conditions at the time of occupancy.

4. Tree Protection. Streets shall be laid out to avoid and protect significant trees and significant tree clusters, but not to the extent that it would compromise connectivity requirements per this subsection (A), or bring the achievable density below 70 percent of the maximum density for the developable net area. The developable net area is calculated by taking the total site acreage and deducting Type I and II lands; then up to 20 percent of the remaining land may be excluded as necessary for the purpose of protecting significant trees and tree clusters as provided in CDC 55.100(B)(2) or 55.105(B)(2), as applicable.

5. Street Connections. The developer shall make all local street connections identified in the Transportation System Plan, Table 17 and Figure 12, that are within the boundaries of the project.

6. Street Improvements.

a. Streets that are i~~I~~nternal ~~streets~~ to the land division site are the responsibility of the developer. All streets bordering the development site are to be developed by the developer with, typically, half-street improvements ~~or~~ to the City of West Linn Public Works Design Standards~~standards prescribed by the City Engineer~~. Additional travel lanes may be required to be consistent with adjacent road widths or to be consistent with the adopted Transportation System Plan (TSP)~~ and any adopted updated plans~~, Tables 26 through 30 and Exhibits 6 through 9.

b. Waiver of required street improvements and in-lieu fee. An applicant may submit a written request for a waiver of abutting street improvements if the improvement would be prohibited by the TSP.~~ prohibits the street improvement for which the waiver is requested. Those areas with numerous (particularly contiguous) under-developed or undeveloped tracts will be required to install street improvements.~~ When ~~an applicant requests a waiver of street improvements and the~~a requested waiver is granted, the applicant shall pay an in-lieu fee equal to the estimated cost, accepted by the City Engineer, of the otherwise required street improvements. As a basis for this determination, the City Engineer shall consider the cost of similar improvements in recent development projects and may require up to three estimates from the applicant. The amount of the fee shall be established prior to the Planning Commission's decision on the associated application. The in-lieu fee shall be used for in kind or related improvements.

~~Streets shall also be laid out to avoid and protect tree clusters and significant trees, but not to the extent that it would compromise connectivity requirements per this subsection (A)(1), or bring the density below 70 percent of the maximum density for the developable net area. The developable net area is calculated by taking the total site acreage and deducting Type I and II lands; then up to 20 percent of the remaining land may be excluded as necessary for the purpose of protecting significant tree clusters or stands as defined in CDC 55.100(B)(2).~~

c~~2~~. Right-of-way widths shall depend upon which classification of street is proposed. The right-of-way widths are established in the adopted TSP, Exhibits 6 through 9.

d. Public Works Design Standards. Street design shall conform to the standards of the applicable roadway authority; for City streets that is the West Linn Public Works Design Standards manual. Where a conflict occurs between this Code and the Public Works Design Standards manual, the provisions of this Code shall govern.

7~~3~~. Street widths. Street widths shall depend upon the classification of street proposed. The classifications and required cross sections are established in the adopted TSP, Tables 26 through 30 and Exhibits 6 through 9.

~~The following t~~Table 85-1 identifies ~~appropriate~~ street width standards (curb to curb) in feet for various street classifications. The ~~desirable~~ standard width shall be required unless the applicant or their engineer can demonstrate that site conditions, topography, or site design require the reduced minimum width through a discretionary review. ~~For local streets, a 12-foot travel lane may only be used as a shared local street when the available right-of-way is too narrow to accommodate bike lanes and sidewalks.~~

Table 85-1: City of West Linn Roadway Cross-Section Standards

Street Element	Characteristic	Width/Options
Vehicle Lane Widths (Typical widths)	Minor Arterial	11 – 12 feet
	Collector	10 – 12 feet
	Neighborhood Route	10 – 12 feet
	Local	10 – 12 feet
On-Street Parking	Minor Arterial	Limited (in designated commercial zones)
	Collector	Optional (8 feet typical width)
	Neighborhood Route	Optional (8 feet typical width)
	Local	Optional* (8 feet typical width)
Bicycle Lanes (Typical widths)	Arterial	5 feet
	Collector	5 feet
	Neighborhood Route	5 feet
Cycle Track	Minor Arterial (30 MPH or greater)	7 feet
	Collector (30 MPH or greater)	7 feet
Sidewalks (Typical widths)	Minor Arterial	6 feet, 10 – 12 feet in commercial zones
	Collector	6 feet, 8 feet in commercial zones
	Along Cycle Track	6 feet, 10 – 12 feet in commercial zones
	Neighborhood Route/Local	6 feet (4 – 5 feet in Willamette Historical District), 8 feet in commercial zones
Landscape Strips	Can be included on all streets	6 feet typical (5 feet for minor arterials)
Raised Medians	5-Lane	Optional
	3-Lane	Optional
	2-Lane	Consider if appropriate
Neighborhood Traffic Management	Arterials	None

Street Element	Characteristic	Width/Options
	Collectors	None
	Neighborhood Route/Local	At the discretion of the City Engineer
Transit	Minor Arterial/Collector	Appropriate
	Neighborhood Route	Only in special circumstances
	Local	Not recommended

* The minimum paved width for both internal and adjacent Local streets in new subdivision proposals shall be 28 feet, unless reduced in subsection (A)(~~4~~8) of this section.

8~~4~~. The decision-making body shall consider the City Engineer's recommendations on the desired right-of-way width, pavement width and geometry for streets within or adjacent to the subdivision. To approve a street design less than the ~~desirable~~ width in ~~subsection (A)(3) of this section~~Table 85-1, the applicant shall demonstrate with proper documentation that one of the following applies:

a. The street design will help protect a water resource area and complies with the submittal requirements and approval standards found in Chapter 32 CDC.

b. The street design will help protect a flood management area and complies with the submittal requirements and approval standards found in Chapter 27 CDC.

c. The street design will help protect the Willamette River Greenway, Tualatin River Greenway, or a habitat conservation area and complies with the submittal requirements and approval standards found in Chapter 28 CDC.

d. The street design will help protect steep slopes and complies with the submittal requirements found in CDC 85.170(C) and approval standards found in subsection E of this section.

e. The street design will help protect a significant tree cluster ~~of significant trees~~ and complies with subsection (J)(9) of this section.

~~5. Additionally, when determining appropriate street width, the decision-making body shall consider the following criteria:~~

~~a. When a local street is the only street serving a residential area and is expected to carry more than the normal local street traffic load, the designs with two travel and one parking lane are appropriate.~~

~~b. Streets intended to serve as signed but unstriped bike routes should have the travel lane widened by two feet.~~

~~c. Collectors should have two travel lanes and may accommodate some parking. Bike routes are appropriate.~~

~~d. Arterials should have two travel lanes. On-street parking is not allowed unless part of a Street Master Plan. Bike lanes are required as directed by the Parks Master Plan and Transportation Master Plan~~.

9~~6~~. Reserve strips. Reserve strips or street plugs controlling the access to streets are not permitted unless owned by the City.

10~~7~~. Alignment. All streets other than local streets or cul-de-sacs~~, as far as practical,~~ shall be in alignment with existing streets by continuations of the centerlines thereof. The staggering of street alignments resulting in "T" intersections shall~~, wherever practical,~~ leave a minimum distance of 200 feet between the centerlines of

streets having approximately the same direction and otherwise shall not be less than 100 feet. Exceptions to these requirements shall only be approved if the applicant demonstrates that compliance is not practical through a discretionary review.

11~~8~~. Future extension of streets. The street system of a proposed development shall be designed to connect to existing, proposed, and planned streets adjacent to the development. Wherever a proposed development abuts unplatted land or a future development phase of an existing development, street stubs shall be provided to allow access to future abutting subdivisions and to logically extend the street system into the surrounding area. Where the stubbed street is over 100 feet long, street ends shall contain ~~Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision and the resulting dead-end streets may be approved without turnarounds. (T~~temporary turnarounds built to ~~Fire Department~~Oregon Fire Code standards ~~are required when the dead-end street is over 100 feet long.)~~and shall be designed to facilitate future extension in terms of grading, width, and temporary barricades.

12~~9~~. Intersection angles.

a. Except as specified in subsection (c), street intersections shall be located and designed as follows:

1) Streets shall be located and designed ~~laid out~~ to intersect ~~angles as near to~~at, or close to, right angles (i.e., 90 degrees or within three degrees of 90 degrees). ~~as practical, except where topography requires lesser angles, but in no case less than 60 degrees unless a special intersection design is approved.~~

2) All legs of an intersection shall meet the above standard for at least 100 feet back from the point of intersection.

3) No more than two streets shall intersect, i.e., creating a four-legged intersection, at any one point.

4) Street jogs and intersection offsets of less than 125 feet are not permitted.

b. Curb radii.

1) Intersections which are not at right angles shall have minimum corner radii of 15 feet along right-of-way lines which form acute angles.

2) Right-of-way lines at intersections with arterial streets shall have minimum curb radii of not less than 35 feet.

3) Other street intersections shall have curb radii of not less than 25 feet.

4) All radii shall maintain a uniform width between the roadway and the right-of-way lines.

c. Through a discretionary review, applicants may request the City consider modifications of the standards in (a) and (b) provided that the following are met:

1) Where an intersection is constrained by topography, the applicant may propose lesser intersection angles. However, intersection angles of less than 60 degrees are not allowed unless a special intersection design is requested and approved.

2) The intersection of more than two streets at any one point or a street jogs or intersection offset of less than 125 feet is necessary because ~~will not be allowed unless~~ no alternative design exists.

13~~10~~. Additional right-of-way for existing streets. Wherever existing street rights-of-way adjacent to or within a tract are of inadequate widths based upon the standards of this chapter, additional right-of-way shall be ~~provided~~ dedicated at the time of subdivision or partition.

14~~11~~. Cul-de-sacs.

a. New cul-de-sacs and other closed-end streets (not including stub streets intended to be connected) ~~on sites containing less than five acres, or sites accommodating uses other than residential or mixed use development,~~ are not allowed unless the applicant demonstrates that there is no feasible alternative due to one or more of the following features physically precluding street extension:

1) Physical constraints, which may include ~~(e.g., existing development, the size or shape of the site,~~ steep topography, or the existence of natural resource areas, including, but not limited to, wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource under protection by state or federal law~~a fish bearing stream or wetland protected by Chapter 32 CDC)~~, or

2) Existing transportation or utility facilities, buildings, or other existing development on adjacent land, or

3~~2~~) Existing easements or leases.

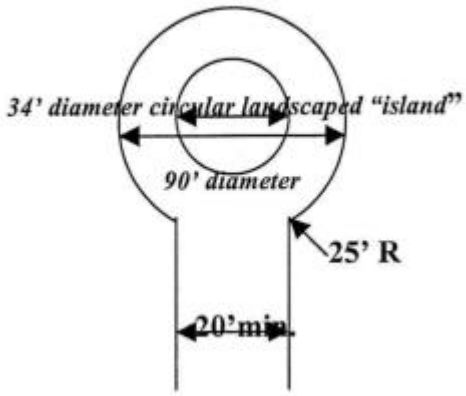
b. New cul-de-sacs and other closed-end streets, consistent with subsection (A)(~~11~~14)(a) of this section, shall not exceed 200 feet in length ~~or serve more than 25 dwelling units unless the design complies with~~and shall comply with all adopted Tualatin Valley Fire and Rescue (TVFR) access standards ~~and adequately provides for anticipated traffic, consistent with the Transportation System Plan (TSP)~~.

~~c. New cul-de-sacs and other closed-end streets (not including stub streets intended to be connected) on sites containing five acres or more that are proposed to accommodate residential or mixed use development are prohibited unless barriers (e.g., existing development, steep topography, or a fish bearing stream or wetland protected by Chapter 32 CDC, or easements, leases or covenants established prior to May 1, 1995) prevent street extensions. In that case, the street shall not exceed 200 feet in length or serve more than 25 dwelling units, and its design shall comply with all adopted TVFR access standards and adequately provide for anticipated traffic, consistent with the TSP.~~

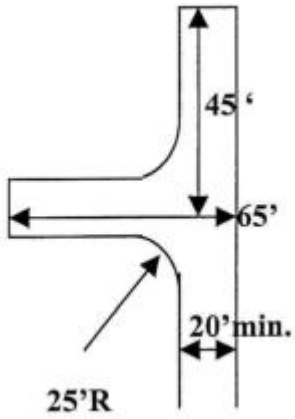
c~~d~~. Applicants for a proposed subdivision, partition or a multifamily, commercial or industrial development accessed by an existing cul-de-sac/closed-end street shall demonstrate that the proposal is consistent with all applicable traffic standards and TVFR access standards.

d~~e~~. All cul-de-sacs and other closed-end streets shall include direct pedestrian and bicycle accessways from the terminus of the street to an adjacent street or pedestrian and bicycle accessways unless the applicant demonstrates that such connections are precluded by a physical constraint~~s~~ consistent with subsection (A)(14)(a) of this section ~~or that necessary easements cannot be obtained at a reasonable cost.~~

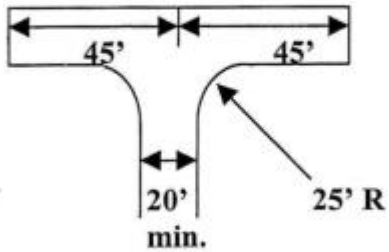
e~~f~~. All cul-de-sacs/closed-end streets shall terminate with a turnaround built to one of the following specifications (measurements are for the traveled way and do not include planter strips or sidewalks).



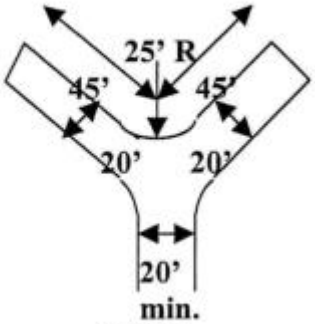
Cul-de-Sac Turnaround



Hammer Head Turnaround

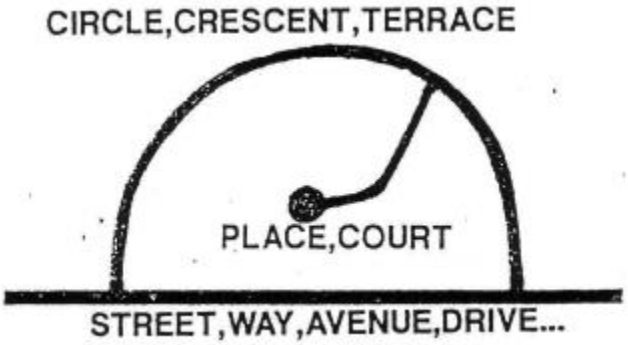


"T" Turnaround



"Y" Turnaround

15~~12~~. Street names. No street names shall be used which will duplicate or be confused with the names of existing streets within the City. Street names that involve difficult or unusual spellings are discouraged. Street names shall be subject to the approval of the Planning Commission or Planning Director, as applicable. Continuations of existing streets shall have the name of the existing street. Streets, drives, avenues, ways, boulevards, and lanes shall describe through streets. Place and court shall describe cul-de-sacs. Crescent, terrace, and circle shall describe loop or arcing roads.



16~~13~~. Grades and curves. Grades and horizontal/vertical curves shall meet the West Linn Public Works Design Standards.

17~~14~~. Access to local streets.

a. Except as provided in subsection (c), ~~I~~intersection of a local residential street with an arterial street ~~may~~ shall be prohibited by the decision-making authority if ~~suitable~~ one or more alternatives exist for providing interconnection of proposed local residential streets with other local streets.

b. Where a residential subdivision or partition abuts or contains an existing or proposed major arterial street, the ~~decision-making authority may require~~ design shall incorporate at least three of the following measures to protect residential properties from incompatible land uses, and to ensure separation of through traffic and local traffic: marginal access streets, reverse-frontage lots with ~~suitable~~lot depth of at least 100 feet, visual barriers, noise barriers, berms, no-access reservations along side and rear property lines, and/or other similar measures proposed by the applicant ~~necessary for adequate protection of residential properties from incompatible land uses, and to ensure separation of through traffic and local traffic~~.

c. At the applicant's request, the City may consider design alternatives to subsections (a) and (b) through a discretionary review.

18~~15~~. Alleys. Alleys shall be provided in commercial and industrial districts unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the decision-making authority. While alley intersections and sharp changes in alignment should be avoided, the corners of necessary alley intersections shall have radii of not less than 10 feet. Alleys may be provided in residential subdivisions or multi-family projects. The decision to locate alleys shall consider the relationship and impact of the alley to adjacent land uses. In determining whether it is appropriate to require alleys in a subdivision or partition, the following factors and design criteria should be considered:

a. The alley shall be self-contained within the subdivision. The alley shall not abut undeveloped lots or parcels which are not part of the project proposal. The alley will not stub out to abutting undeveloped parcels which are not part of the project proposal.

b. The alley will be designed to allow unobstructed and easy surveillance by residents and police.

c. The alley should be illuminated. Lighting shall meet the West Linn Public Works Design Standards.

d. The alley should be a semi-private space where strangers are tacitly discouraged.

e. Speed bumps may be installed in sufficient number to provide a safer environment for children at play and to discourage through or speeding traffic.

f. Alleys should be a minimum of 14 feet wide, paved with no curbs.

19~~16~~. Sidewalks. Sidewalks shall be installed per CDC 92.010(H), Sidewalks. The residential sidewalk width is six feet plus planter strip as specified below. Sidewalks in commercial zones shall be constructed per subsection (A)(~~3~~7) of this section. See also subsection C of this section. If part of a discretionary review, s~~S~~idewalk width may be reduced with City Engineer approval to the minimum amount (e.g., four feet wide) necessary to respond to site constraints such as grades, mature trees, rock outcroppings, etc., or to match existing sidewalks or right-of-way limitations.

20~~17~~. Planter strip. The planter strip is between the curb and sidewalk providing space for a grassed or landscaped area and street trees. The planter strip shall be at least 6 feet wide to accommodate a fully matured tree without the boughs interfering with pedestrians on the sidewalk or vehicles along the curbline. If part of a discretionary review, p~~P~~lanter strip width may be reduced or eliminated, with City Engineer approval, when it cannot be corrected by site plan, to the minimum amount necessary to respond to site constraints such as grades, mature trees, rock outcroppings, etc., or in response to right-of-way limitations.

21~~18~~. Streets and roads shall be dedicated without any reservations or restrictions.

22~~19~~. All lots in a subdivision shall have access to a public street. Lots created by partition may have access to a public street via an access easement pursuant to the standards and limitations set forth for such accessways in Chapter 48 CDC.

23~~20~~. Gated streets. Gated streets are prohibited in all residential areas on both public and private streets. A driveway to an individual home may be gated.

24~~21~~. Entryway treatments and street isle design. When the applicant ~~desires~~ proposes to construct certain walls, planters, and other architectural entryway treatments within a subdivision, the following standards shall apply:

a. All entryway treatments except islands shall be located on private property and not in the public right-of-way.

b. Planter islands may be allowed provided there is no structure (i.e., brick, signs, etc.) above the curbline, except for landscaping. Landscaped islands shall be set back a minimum of 24 feet from the curbline of the street to which they are perpendicular.

c. All islands shall be in public ownership. The minimum aisle width between the curb and center island curbs shall be 14 feet. Additional width may be required as determined by the City Engineer.

d. Brick or special material treatments are acceptable at intersections with the understanding that the City will not maintain these sections except with asphalt overlay, and that they must meet the Americans with Disabilities Act (ADA) standards. They shall be laid out to tie into existing sidewalks at intersections.

e. Maintenance for any common areas and entryway treatments (including islands) shall be guaranteed through homeowners association agreements, CC&Rs, etc.

f. Under Chapter 52 CDC, subdivision monument signs shall not exceed 32 square feet in area.

25~~22~~. Based upon the determination of the City Manager or the Manager's designee, the applicant shall construct or cause to be constructed, or contribute a proportionate share of the costs, for all necessary off-site improvements identified by the transportation analysis commissioned to address CDC 85.170(B)(2) that are required to mitigate impacts from the proposed subdivision. The proportionate share of the costs shall be determined by the City Manager or Manager's designee, who shall assume that the proposed subdivision provides improvements in rough proportion to identified impacts of the subdivision. Off-site transportation improvements will include bicycle and pedestrian improvements as identified in the adopted City of West Linn TSP, Figures 6, 7 and 10 and Tables 4 and 6.

B. Blocks and lots.

1. ~~General~~Purpose. The length, width, and shape of blocks shall be designed with due regard for the provision of adequate building sites for the use contemplated; consideration of the need for traffic safety, convenience, access, circulation, and control; and recognition of limitations and opportunities of topography and solar access.

2. Sizes~~. The recommended block size is 400 feet in length to encourage greater connectivity within the subdivision.~~

a. Except as required under subsection (B)(2)(c) of this section, b~~B~~lock~~s~~ lengths shall not exceed 800 feet ~~in length between street lines~~, except for blocks adjacent to arterial streets or unless topographical conditions or the layout of adjacent streets justifies a variation as part of a discretionary review.

b. Designs of proposed intersections shall demonstrate ~~adequate~~ sight distances ~~to the City~~consistent with the West Linn Public Works Design Standards ~~Engineer's specifications~~. ~~Block sizes and proposed accesses must be consistent with the adopted TSP.~~

c. Subdivisions of five or more acres that involve construction of a new street shall have block lengths of no more than 530 feet, unless an exception is granted based on one or more of the following:.

1) Physical conditions preclude a block length 530 feet or less. Such constraints may include, but are not limited to, steep topography; the existence of natural resource areas under protection by requirements of Titles 3 and 13 of the UGMFP or by state or federal law; rail lines; or freeways.

3) Buildings, leases, easements or covenants that existed prior to May 1, 1995 or other pre-existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a block length 530 feet or less, considering the potential for redevelopment.

4) An existing public street or streets terminating at the boundary of the development site have a block length exceeding 530 feet, or are situated such that the extension of the street(s) into the development site would create a block length exceeding 530 feet. In such cases, the block length shall be as close to 530 feet as practicable.

d. If block lengths are greater than 530 feet, accessways on public easements or right-of-way for pedestrians and cyclists shall be provided not more than 330 feet apart. Exceptions can be granted when prevented by barriers such as topography, rail lines, freeways, pre-existing development, leases, easements or covenants that existed prior to May 1, 1995, or by requirements of Titles 3 and 13 of the UGMFP.

e. If streets must cross water features protected pursuant to Title 3 UGMFP, provide a crossing must be provided every 800 to 1,200 feet unless habitat quality or the length of the crossing prevents a full street connection.

3. Lot size and shape. Lot or parcel sizes and dimensions shall conform to the minimum standards of the CDC, unless as allowed by planned unit development (PUD). width, shape, and orientation shall be appropriate for the location of the subdivision or partition, for the type of use contemplated, for potential utilization of solar access, and for the protection of drainageways, trees, and other natural features. No lot or parcel shall be dimensioned to contain part of an existing or proposed street. All lots or parcels shall be buildable. "Buildable" describes lots that are free of constraints such as wetlands, drainageways, etc., that would make home construction impossible. Lot or parcel sizes shall not be less than the size required by the zoning code unless as allowed by planned unit development (PUD).

Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use proposed.

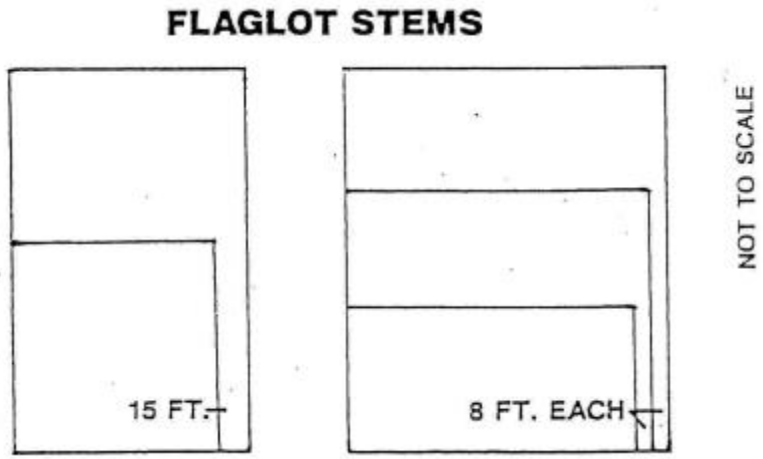
4. Access. Access to subdivisions, partitions, and lots shall conform to the provisions of Chapter 48 CDC, Access, Egress and Circulation.

5. Double frontageThrough lots and parcels. Double frontageThrough lots and parcels have frontage on a street at the front and rear property lines. Double frontageThrough lots and parcels shall be avoided except where they are essential to provide separation of residential development from necessary to avoid residential lots with frontage on arterial streets. Additional exceptions may be granted as part of a discretionary review if an applicant proposes through lots to provide separation from or adjacent non-residential activities, or to overcome specific disadvantages of topography and orientation. As part of the discretionary review, aA planting screen or impact mitigation easement at least 10 feet wide, and across which there shall be no right of access, may be required along the line of building sites abutting such a traffic artery or other incompatible use.

6. Lot and parcel side lines. The side lot lines of lots and parcels, as far as is practicable, should shall run at right angles to the street upon which they face, except that on curved streets they should shall be radial to the curve.

7. Flag lots. Flag lots can be createdare permitted only where it can be shown that there is adequate lot area to divide a property into two or more lots but there is not enough street frontage to meet the standard minimum requirement and where creation of a street is not necessary to meet connectivity standards. no other reasonable street access is possible to achieve the requested land division. A single flag lot shall have a minimum street

frontage of 15 feet for its accessway. Where two to four flag lots share a common accessway, the minimum street frontage and accessway shall be eight feet in width per lot. Common accessways shall have mutual maintenance agreements and reciprocal access and utility easements. The following dimensional requirements shall apply to flag lots:



a. Setbacks applicable to the underlying zone shall apply to the flag lot.

b. Front yard setbacks ~~may~~ shall be based on the rear property line of the lot or parcel which substantially separates the flag lot from the street from which the flag lot gains access. Alternately, if the garage or parking area will be oriented toward the flag lot accessway, the front yard setback may be parallel to the accessway and measured from the edge of the accessway. As part of a discretionary review, the ~~house and its~~buildings and front yard may be oriented in other directions so long as some measure of privacy is ensured, or it is part of a pattern of development, or it better fits the topography of the site.

c. The lot size shall be calculated exclusive of the accessway; the access strip may not be counted towards the area requirements.

d. The lot depth requirement ~~contained elsewhere in this code~~specified in the zoning district standards shall be measured from the rear property line of the lot or parcel which substantially separates the flag lot from the street from which the flag lot gains access.

e. As per CDC 48.030, the accessway shall have a minimum paved width of 12 feet.

f. If the use of a flag lot stem to access a lot is infeasible because of a lack of adequate existing road frontage, or location of existing structures, the proposed lot(s) may be accessed from the public street by an access easement of a minimum 15-foot width across intervening property.

8. Large lots or parcels. In dividing tracts into large lots or parcels that are more than double the minimum area designated by the zoning district~~which, at some future time, are likely to be redivided, the approval authority may~~:

a. Those lots must be arranged so as to allow further subdivision, and must ~~Require that the blocks be of such size and shape, and be so divided into building sites, and~~ contain such easements and site restrictions as will provide for extension and opening of future streets where it would be necessary to serve potential lots~~at intervals which will permit a subsequent division of any tract into lots or parcels of smaller size~~; or

b. Alternately, in order to prevent further subdivision or partition of oversized and constrained lots or parcels, restrictions may be imposed on the subdivision or partition plat.

C. Pedestrian and bicycle trails**.**

1. When pedestrian and bicycle accessways are required pursuant to subsection (B)(2)(d) of this section, r~~T~~rails or multi-use pathways shall be installed, consistent and compatible with federal ADA requirements and with the Oregon Transportation Planning Rule~~, between subdivisions, cul-de-sacs, and streets that would otherwise not be connected by streets due to excessive grades, significant tree(s), and other constraints natural or human made~~. Trails shall also accommodate bicycle or pedestrian traffic between neighborhoods and activity areas such as schools, libraries, parks, or commercial districts. Trails shall also be required where designated by the Parks Master Plan.

2. The all-weather surface (asphalt, etc.) trail ~~should~~ shall be eight feet wide at minimum for bicycle use and six feet wide at minimum for pedestrian use. Trails within 10 feet of a wetland or natural drainageway shall not have an all-weather surface, but shall have a soft surface as approved by the Parks Director. These trails shall be contained within a corridor dedicated to the City that ~~is wide enough to provide trail users with a sense of defensible space. Corridors that are too narrow, confined, or with vegetative cover may be threatening and discourage use. Consequently, the~~ has a minimum ~~corridor~~ width of ~~shall be~~ 20 feet. Sharp curves, twists, and blind corners on the trail ~~are to~~shall be avoided~~ as much as possible to enhance defensible space~~. Deviations from the corridor and trail width are permitted only through a discretionary review where topographic and ownership constraints require it.

3. Defensible space shall also be enhanced by the provision of a three- to four-foot-high matte black chain link fence or acceptable alternative along the edge of the corridor. The fence shall help delineate the public and private spaces.

4. The bicycle or pedestrian trails that traverse multi-family and commercial sites ~~should~~ shall follow the ~~same defensible space~~ standards in subsection (C)(2), but do not need to be defined by a fence unless required by the decision-making authority as part of a discretionary review.

5. Except for trails within 10 feet of a wetland or natural drainageway, soft surface or gravel trails may only be used in place of a paved, all-weather surface where it can be shown to the Planning Director as part of a discretionary review that the principal users of the path will be recreational, non-destination-oriented foot traffic, and that alternate paved routes are nearby and accessible.

6. The trail grade shall not exceed 12 percent~~ except~~, and may increase to no more than 15 percent for a maximum of 50 feet, with a resting interval of no more than 12 percent for a minimum of five feet.~~ in areas of unavoidable topography, where the trail may be up to a 15 percent grade for short sections no longer than 50 feet.~~ In any location where topography requires steeper trail grades than permitted by this section, the trail shall incorporate a short stair section to traverse the area of steep grades.

D. Transit facilities.

1. The applicant shall consult with Tri-Met and the City Engineer to determine the appropriate location of transit stops, bus pullouts, future bus routes, etc., contiguous to or within the development site. If transit service is planned to be provided within the next two years, then facilities such as pullouts shall be constructed per Tri-Met standards at the time of development. More elaborate facilities, like shelters, need only be built when service is existing~~ or imminent~~. Additional rights-of-way may be required of developers to accommodate buses.

2. The applicant shall make all transit-related improvements in the right-of-way or in easements abutting the development site, consistent with ODOT standards and in coordination with Tri-Met~~ as deemed appropriate by the City Engineer~~.

3. Transit stops shall be served by striped and signed pedestrian crossings of the street within 150 feet of the transit stop~~ where feasible~~. Illumination of the transit stop and crossing is required to enhance defensible space and safety. ODOT approval may be required.

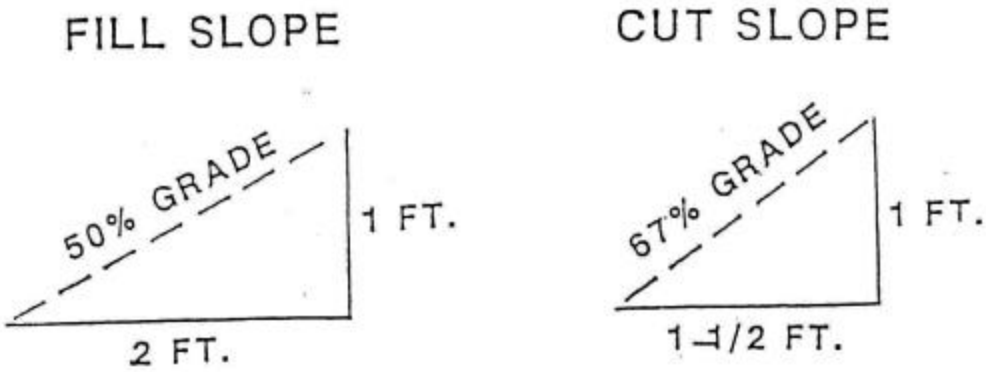
4. Transit stops ~~should~~ shall include a shelter structure bench plus eight feet of sidewalk to accommodate transit users, non-transit-related pedestrian use, and wheelchair users, unless a reduction is approved by Tri-Met. Tri-Met must approve the final configuration.

E. Grading. Grading of building sites shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:

1. All cuts and fills shall comply with the excavation and grading provisions of the ~~Uniform~~ Building Code and the following:

a. Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically (i.e., 67 percent grade).

b. Fill slopes shall not exceed two feet horizontally to one foot vertically (i.e., 50 percent grade). Please see the following illustration.



~~2. The character of soil for fill and the characteristics of lot and parcels made usable by fill shall be suitable for the purpose intended.~~

2~~3~~. If areas are to be graded ~~(more than any four-foot cut or fill)~~, compliance with CDC 85.170(C) is required.

3~~4~~. The proposed grading shall be the minimum grading necessary to meet roadway standards, pursuant to the West Linn Public Works Design Standards, and to create ~~appropriate~~ buildable~~ing~~ sites, considering maximum allowed driveway grades.

4~~5~~. Type I lands shall require a geologic report submitted by ~~an~~ a certified engineering geologist, and Type I and Type II lands shall require a geologic hazard report stamped by a certified geotechnical professional engineer, consistent with the submittal requirements in CDC 85.170(C)(3).

5~~6~~. ~~Per the submittals required by CDC 85.170(C)(3), the applicant must demonstrate that the proposed methods of rendering known or potential hazard sites safe for development, including proposed geotechnical remediation, are feasible and adequate to prevent landslides or other damage to property and safety.~~ The review authority may impose conditions, including limits on type or intensity of land use, ~~which it determines are~~ necessary to mitigate known risks of landslides or property damage, based on the conclusions and recommendations of the geologic report.

6~~7~~. On land with slopes in excess of 12 percent, cuts and fills shall be regulated as follows:

a. Toes of cuts and fills shall be set back from the boundaries of separate private ownerships at least three feet, plus one-fifth of the vertical height of the cut or fill. Where an exception is required from that requirement, slope easements shall be provided.

b. Cuts shall not remove the toe of any slope where a severe landslide or erosion hazard exists.

c. Any structural fill shall be designed by a registered engineer in a manner consistent with the intent of this code and standard engineering practices, and certified by that engineer that the fill was constructed as designed.

d. Retaining walls shall be constructed pursuant to Section 2308(b) of the Oregon State Structural Specialty Code.

~~e. Roads shall be the minimum width necessary to provide safe vehicle access, minimize cut and fill, and provide positive drainage control.~~

7~~8~~. Land over 50 percent slope shall be developed only where~~ density transfer is not feasible.~~ the applicant cannot meet the standards of CDC 24.~~.~~ ~~T~~In such cases, the development will provide that:

a. At least 70 percent of the ~~site~~ land over 50% slope will remain free of structures or impervious surfaces.

b. Emergency access can be provided per the TVF&R Service Provider Permit.

c. Design and construction of the project will not cause erosion or land slippage per the geologic report and geologic hazard report.

d. Grading, stripping of vegetation, and changes in terrain are the minimum necessary to construct the development in accordance with subsection J of this section.

F. Water**.**

1. A plan for domestic water supply lines or related water service facilities shall be prepared consistent with the adopted Comprehensive Water System Master Plan, ~~plan update, March 1987~~updated in 2008, and subsequent superseding revisions or updates. The plan shall include:

a~~2~~. ~~Adequate l~~Location and sizing of the water lines consistent with the Water System Master Plan and West Linn Public Works Design Standards.

~~3. Adequate looping system of water lines to enhance water quality.~~

b~~4~~. For all non-single-family developments, there shall be a demonstration of adequate fire flow to serve the site, as demonstrated by consistency with West Linn Public Works Design Standards.

c~~5~~. A written statement, signed by the City Engineer, that water service can be made available to the site by the construction of on-site and off-site improvements and that such water service has sufficient volume and pressure to serve the proposed development's domestic, commercial, industrial, and fire flows.

G. Sewer**.**

1. A plan prepared by a licensed engineer shall show how the proposal is consistent with the current Sanitary Sewer Master Plan and subsequent updates and amendments applicable at the time the proposal is submitted. Agreement with that plan must demonstrate how the sanitary sewer proposal will be accomplished and how it is gravity-efficient. The sewer system must be in the correct basin and ~~should~~ allow for full gravity service.

2. Sanitary sewer information will include plan view of the sanitary sewer lines, including manhole locations and depth or invert elevations.

3. Sanitary sewer lines shall be located in the public right-of-way, particularly the street, unless the applicant can demonstrate as part of a discretionary review why the alternative location is necessary and meets accepted engineering standards.

4. Sanitary sewer line ~~should~~ shall be at a depth that can facilitate connection with down-system properties in an efficient manner.

5. For non-residential development, t~~T~~he sanitary sewer line should be designed to minimize the amount of lineal feet in the system.

6. The sanitary sewer line shall avoid disturbance of wetland and drainageways. In those cases where that is unavoidable, disturbance shall be mitigated pursuant to Chapter 32 CDC, Water Resource Area Protection, all trees replaced, and proper permits obtained. Dual sewer lines may be required so the drainageway is not disturbed.

7. Sanitary sewer shall be extended or stubbed out to ~~the next developable subdivision~~adjacent undeveloped land or a point in the street that allows for ~~reasonable~~ connection with adjacent or nearby properties.

8. The sanitary sewer system shall be built pursuant to DEQ, City, and Tri-City Service District sewer standards. The design of the sewer system ~~should~~ shall be prepared by a licensed engineer, and the applicant must be able to demonstrate the ability to satisfy these submittal requirements or standards at the pre-construction phase.

9. A written statement, signed by the City Engineer, that sanitary sewers with sufficient capacity to serve the proposed development and that adequate sewage treatment plant capacity is available to the City to serve the proposed development.

H. Storm detention and treatment. All proposed storm detention and treatment facilities comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards, as demonstrated by stormwater plan and report stamped by a professional engineer.~~, there will be no adverse off-site impacts caused by the development (including impacts from increased intensity of runoff downstream or constrictions causing ponding upstream), and there is sufficient factual data to support the conclusions of the submitted plan.~~

I. Utility easements. Subdivisions and partitions shall establish utility easements to accommodate the required service providers as ~~determined by the City Engineer~~specified in the West Linn Public Works Design Standards. ~~The developer of the subdivision shall make accommodation for cable television wire in all utility trenches and easements so that cable can fully serve the subdivision.~~

J. Supplemental provisions**.**

1. Wetland and natural drainageways. Wetlands and natural drainageways shall be protected as required by Chapter 32 CDC, Water Resource Area Protection. ~~Utilities may be routed through the protected corridor as a last resort, but impact mitigation is required.~~

2. Willamette and Tualatin Greenways. The Willamette and Tualatin River Greenways shall be protected as required by Chapter 28 CDC, Willamette and Tualatin River Protection.

3. Street trees. Street trees are required as identified in ~~the appropriate s~~Section 8.720 of the municipal code and Chapter 54 CDC.

4. Lighting. All subdivision street or alley lights shall meet West Linn Public Works Design Standards.

5. Dedications and exactions. The City may require an applicant to dedicate land and/or construct a public improvement that provides a benefit to property or persons outside the property that is the subject of the application when the exaction is roughly proportional. No exaction shall be imposed unless supported by a determination that the exaction is roughly proportional to the impact of development.

6. Underground utilities. All utilities, such as electrical, telephone, and television cable, that may at times be above ground or overhead shall be buried underground in the case of new development. ~~The e~~Exceptions shall be permitted ~~would be~~ in those cases where ~~the area is substantially built out and~~ adjacent properties have above-ground utilities and where the development site's frontage is under 200 feet and the site is less than one acre. High voltage transmission lines, as classified by Portland General Electric or electric service provider, ~~would~~ are also ~~be~~ exempted. Where adjacent future development is ~~expected or imminent~~planned or proposed, conduits may be required at the direction of the City Engineer. All services shall be underground with the exception of standard above-grade equipment such as some meters, etc.

7. Density requirement. Density shall occur at 70 percent or more of the maximum density allowed by the underlying zoning. These provisions ~~would~~ do not apply when density is transferred from Type I and II lands as defined in CDC 02.030. Development of Type I or II lands are exempt from these provisions. Land divisions of three lots or less ~~would~~ are also ~~be~~ exempt.

8. Mix requirement. The "mix" rule means that developers shall have no more than 15 percent of the R-2.1 and R-3 development as single-family residential (including duplex, triplex, quadplex, and townhouse development). The intent is that the majority of the site shall be developed as medium high density multi-family housing.

9. Heritage trees/significant tree and tree cluster protection. All heritage trees, as defined in ~~the~~ municipal code Section 8.710, shall be ~~saved~~protected. If requested by the applicant, d~~D~~iseased heritage trees, as determined by the City Arborist, may be removed~~ at their direction~~. ~~All non-heritage trees and clusters of trees (three or more trees with overlapping dripline; however, native oaks need not have an overlapping dripline) that are considered significant by virtue of their size, type, location, health, or numbers~~Significant trees and significant tree clusters, as defined in CDC 2.030, shall be ~~saved~~ protected pursuant to CDC 55.100(B)(2) or CDC 55.105(B)(2), as applicable.~~ Trees are defined per the municipal code as having a trunk six inches in diameter or 19 inches in circumference at a point five feet above the mean ground level at the base of the trunk.~~ (Ord. 1377, 1995; Ord. 1382, 1995; Ord. 1401, 1997; Ord. 1403, 1997; Ord. 1408, 1998; Ord. 1425, 1998; Ord. 1442, 1999; Ord. 1463, 2000; Ord. 1526, 2005; Ord. 1544, 2007; Ord. 1584, 2008; Ord. 1590 § 1, 2009; Ord. 1604 § 64, 2011; Ord. 1613 § 20, 2013; amended during July 2014 supplement; Ord. 1635 § 34, 2014; Ord. 1636 § 56, 2014; Ord. 1647 § 8, 2016; Ord. 1650 § 1 (Exh. A), 2016; Ord. 1662 § 16, 2017; Ord. 1675 § 53, 2018; Ord. 1695 § 4, 2019; Ord. 1713 § 1, 2020)

85.210 PROPERTY LINE ADJUSTMENTS – APPROVAL STANDARDS

A. The Director shall approve or deny a request for a property line adjustment based on the criteria stated below:

1. An additional lot or parcel shall not be created by the property line adjustment.

2. The existing property shall not be reduced in size by the adjustments below the minimum lot or parcel size established by the approved zoning for that district. The property line adjustment shall not enlarge, increase or extend the non-conformity of a non-conforming lot or non-conforming structure.

3. Property line adjustments shall be either:

a. A straight line (see Figure 1 example);

b. A line with maximum of two 45- to 90-degree turns (see Figure 2 example); or

c. A maximum of three turns less than 45 degrees (see Figure 3 example).

(The following figures are only intended as examples.)

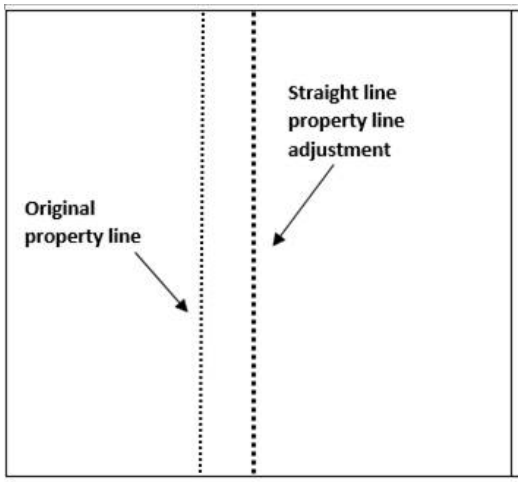


Figure 1.

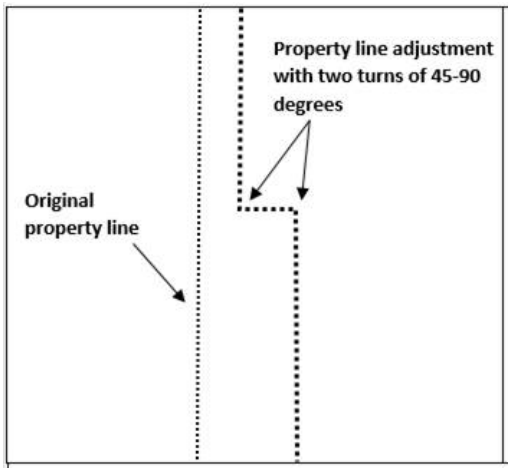


Figure 2.

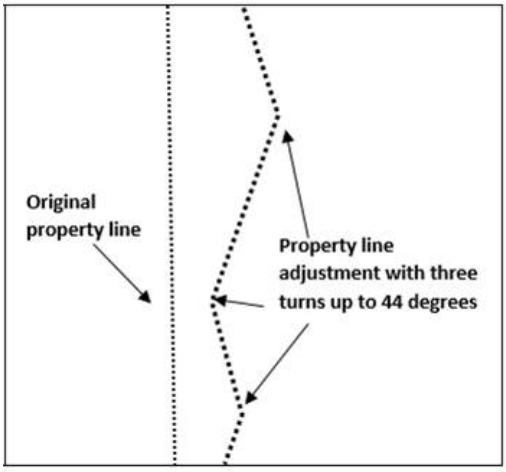


Figure 3.

4. The property line adjustment shall not create a lot or parcel that violates applicable site development regulations.

5. The property line adjustment will not adversely affect existing easements or existing utilities unless an easement vacation is obtained, replacement easements are established, or any required utility relocations are paid for by the applicant.

6. Proposed property line adjustments that cannot meet these standards are subject to review under CDC 99.060(B)(2)(e).

7. Any appeal must be filed in accordance with CDC 99.240.

B. The provisions of CDC 85.070 shall also apply to property line adjustments. (Ord. 1401, 1997; Ord. 1442, 1999; Ord. 1635 § 35, 2014; Ord. 1636 § 57, 2014; Ord. 1675 § 54, 2018)

Chapter 91

IMPROVEMENT GUARANTEE

Commentary:

Amendments in this chapter are related to House Bill 2306, which was passed by the state legislature in 2019. HB 2306 (encoded in state statute as ORS 445.175) prohibits any local government from denying a building permit for a residential dwelling in a residential subdivision in which the infrastructure is "substantially complete."

Specifically, building permits cannot be denied for failing to satisfy conditions of a development IF an acceptable financial guarantee has been secured AND the following systems meet applicable standards, unless agreed otherwise: water, fire hydrants, sewage, storm drainage, curbs, and streets and street-signs for emergency response purposes. Jurisdictions retain their authority to deny occupancy permits if full public improvements (including sidewalks, street trees, street lighting, etc.) are not complete. The purpose of the bill was to help expedite the permitting process for residential subdivisions.

See additional commentary below.

Sections:

91.010 IMPROVEMENTS
91.020 PERFORMANCE BOND WITH IMPROVEMENTS REQUIRED
91.030 OPEN SPACE CONVEYANCE
91.050 APPLICABILITY

91.010 IMPROVEMENTS

Commentary:

Other sections of the CDC appear to allow a final subdivision plat to be approved (and subsequent building permits to be issued) when a developer provides financial assurances that public improvements will be completed (in lieu of completing the improvements themselves). CDC 89.030 lists this type of assurance and agreement as an option for final plat approval. CDC 85.100 appears to set occupancy permits as the deadline for public improvements (rather than final plat approval). Both those provisions appear to be consistent with HB 2306, because they allow building permits to be issued even if the full public improvements are not yet complete.

However, the requirements below seem to conflict with those other sections by requiring improvements to be installed prior to the City's approval of a final subdivision/partition plat or building permit. The proposed amendments would add the agreement/assurance option in subsection (A)(2) as an alternative to completing the improvements.

A. Before approval by the Planning Director and the City Engineer of a final subdivision, partition plat, building permit, or construction plans (other than plans for required improvements), the developer shall either install the required improvements or agree to install required improvements, as provided in either subsection (1) or (2) below and shall provide reimbursement as provided in subsection (3):

1. Install Improvements. The developer shall i~~I~~nstall required improvements and repair existing streets and other public facilities damaged in the development of the property; or

2. Agree to Install Improvements. In lieu of installing improvements, the developer shall execute and file with the City an agreement specifying the period within which required improvements shall be completed and shall file one of the financial assurances under CDC 91.020(A).

3~~2.~~ The developer shall also provide reimbursement to the City for costs of processing inspection, professional services, etc., of said required improvements by the City. Monthly costs of the City shall be billed against the six percent of construction cost deposit made by the developer to the City prior to construction of required improvements. The developer shall ensure that the deposit balance remains positive. If the developer is notified that the balance is negative, the developer has seven calendar days to correct the overage and provide additional deposit as specified by the City Engineer. Failure of the developer to correct the situation by that date will result in the issuance of a stop work order by the City which shall remain in force until said fees are paid in full and additional deposit provided.

B. The City shall install all street name signs and traffic control devices for the initial signing of a new development, with said costs to be reimbursed by the developer.

C. Upon written acceptance by the City of required improvements, the developer shall execute a maintenance bond with a surety company authorized to transact business in the State; such bond to be in a form approved by the City Attorney. The maintenance bond shall guarantee satisfactory performance required and installed improvements included in the subdivision or partition for a maximum period of 18 months from the date of written approval/acceptance by the City of said improvements. The amount of said maintenance bond shall be in an amount equivalent to 20 percent of the total installation cost of required improvements. The maintenance bond shall also provide financial guarantee for any damage caused to said improvement during the period of the maintenance bond.

D. Until such time as all required improvements within the subdivision or partition have been accepted by the City, the developer shall be solely responsible for the cleanup of debris, dirt, and foreign materials derived from this development or project upon sidewalks and roadways. To guarantee performance of this responsibility, the

developer shall provide a cash deposit in the amount of five percent of the total installation of the improvements. The developer shall be responsible for all safety and cleaning all debris, dirt, and foreign material derived from their development or project by 5:00 p.m. of each workday; except that if said debris, dirt, or foreign material is found by the City Engineer to constitute an immediate traffic or safety hazard, it shall be immediately removed by the developer. The developer shall furnish the City with information as to where the developer or a designated subordinate may be reached at all times by the City regarding the performance of such cleanup work. Failure of the developer to clean up debris, dirt, or foreign material as hereinabove stated shall give the City the right to clean up said debris, dirt, or foreign material utilizing City crews, or to hire an independent contractor to do the same, and deduct same costs from the five percent cash deposit. The City shall bill the developer for all such cleanup services at the rate of twice the actual City labor costs incurred plus 35 percent of such actual labor costs reflecting utilization of City equipment. In the event that the City hires a private contractor to perform these services, the City shall bill the developer the actual cost incurred by the private contractor plus 50 percent of said actual costs reflecting the administrative costs incurred. The deposit shall be kept in a positive balance within the same criteria as the deposit noted in subsection (A)(2) of this section with the same ramifications for failure.

E. Before the City accepts any required improvements within a subdivision or major partition and releases the performance bond, the developer shall furnish to the City certification of a registered civil engineer that said improvements have been installed and meet all applicable City, State, and federal requirements. (Ord. 1502, 2004)

91.020 PERFORMANCE BOND WITH IMPROVEMENTS REQUIRED

Commentary:

In subsection (A) in the current code, the City requires a developer to provide financial assurance that improvements will be completed—even if they intend to complete the improvements before the final plat is approved and permits are issued. This is intended to ensure the work is finished and not abandoned mid-way. To be consistent with the amendments in the previous section (and HB 2306), the proposed amendments would allow the same financial assurances as an alternative to installing the improvements.

A. The developer shall file one of the financial assurances in subsections (1) through (5), below, p~~P~~rior to commencement of construction of ~~said~~ required improvements and to assure full and faithful performance thereof, or as an alternative to installing improvements, as provided in CDC 91.010(A)(2) ~~the developer shall file one of the following~~:

1. A surety bond executed by a surety company authorized to transact business in the State, such bond to be in a form approved by the City Attorney;

2. A personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement in a form approved by the City Attorney;

3. Cash;

4. Executed application for Bancroft bonding in approved improvement district; or

5. An irrevocable assignment agreement executed by a financial institution in a form approved by the City Attorney.

B. Such assurance of full and faithful performance shall be for a sum approved by the City Engineer as sufficient to cover 125 percent of the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspections.

C. In the event the developer fails to execute the completion of the said improvements within the timeframe mutually agreed upon by the developer and City Engineer, and the City has unreimbursed costs or expenses resulting from such failure, the City shall call upon the bond or cash deposit. If said bond or cash deposit exceeds costs and expenses incurred by the City, it shall release the remainder after acceptance by the City of said repaired improvements. If the amount of the bond or cash deposit is less than the cost and expense incurred by the City, the developer shall be liable to the City for the difference. (Ord. 1502, 2004, Ord. 1547, 2007)

91.030 OPEN SPACE CONVEYANCE

When the tentative plan of a proposed subdivision or map of a partition includes open space, it shall be conveyed in accordance with one of the following methods:

A. By dedication to the City as publicly owned and maintained as open space. Open space proposed for dedication to the City must be acceptable to the City with regard to the size, shape, location, improvement, and budgetary and maintenance limitations.

B. By leasing or conveying title (including beneficial ownership) to a corporation, owners' association, or other legal entity. Restrictions on development of the lot or parcel shall be placed on the final plat or otherwise recorded. The specific language of the restrictions shall be approved by the City prior to recordation. The terms of such lease or other instrument of conveyance must include provisions suitable to the City Attorney for guaranteeing the following:

1. The continued use of such land for the intended purposes.
2. Continuity of property maintenance.
3. When appropriate, the availability of funds required for such maintenance.
4. Adequate insurance protection.
5. Recovery of loss sustained by casualty and condemnation or otherwise.

C. By any method which achieves the objectives set forth in subsection B of this section. (Ord. 1442, 1999; Ord. 1636 § 58, 2014)

91.050 APPLICABILITY

The foregoing requirements apply to:

1. Any construction of public improvements within an existing public right-of-way and/or easement; and

2. Any construction of public improvements within a tract that does not require replatting prior to building permit issuance. (Ord. 1502, 2004)

Chapter 92

REQUIRED IMPROVEMENTS

Sections:

92.010 PUBLIC IMPROVEMENTS FOR ~~ALL DEVELOPMENT~~LAND DIVISIONS
92.020 IMPROVEMENTS IN PARTITIONS
92.030 IMPROVEMENT PROCEDURES
92.040 SPECIFICATIONS FOR IMPROVEMENTS
92.050 CHANGES IN SUBDIVISION PHASE NUMBERS PROHIBITED

92.010 PUBLIC IMPROVEMENTS FOR ~~ALL DEVELOPMENT~~LAND DIVISIONS

Commentary:

Many of the improvement standards for land divisions include discretionary language, or refer to discretion by the City Planning Director or Engineer. Rather than creating a two-track system for residential/C&O and non-residential/discretionary standards, the proposed approach is to revise the criteria for all development to be clear and objective.

The proposed amendments refer to public works design standards where possible, include more specific references to the Transportation System Plan, revise discretionary or unclear language, and allow exceptions only as part of a discretionary review.

The following improvements shall be installed at the expense of the developer and meet all City codes and standards:

A. Streets within subdivisions.

1. All streets within a subdivision, including alleys, shall be graded for the full right-of-way width and improved ~~to the City's permanent improvement standards and specifications which include sidewalks and bicycle lanes~~ in accordance with the West Linn Public Works Design Standards and with the street cross sections in Exhibits 6-9 of the 2016 Transportation System Plan, unless the applicant requests an exception as part of a discretionary review and the decision-making authority makes the following findings:

a. The right-of-way cannot be reasonably improved in a manner consistent with City road standards or with City standards for the protection of wetlands and natural drainageways.

b. The right-of-way does not provide a link in a continuous pattern of connected local streets, or, if it does provide such a link, that an alternative street link already exists or the applicant has proposed an alternative street which provides the necessary connectivity, or the applicant has proven that there is no feasible location on the property for an alternative street providing the link.

2. When the decision-making authority makes these findings, the decision-making authority may impose any of the following conditions of approval:

a. A condition that the applicant initiate vacation proceedings for all or part of the right-of-way.

b. A condition that the applicant build a trail, bicycle path, or other appropriate way.

If the applicant initiates vacation proceedings pursuant to subsection (A)(2)(a) of this section, and the right-of-way cannot be vacated because of opposition from adjacent property owners, the City Council shall consider and decide whether to process a City-initiated street vacation pursuant to Chapter 271 ORS.

Construction staging area shall be established and approved by the City Engineer. Clearing, grubbing, and grading for a development shall be confined to areas that have been granted approval in the land use approval process only. Clearing, grubbing, and grading outside of land use approved areas can only be approved through a land use approval modification and/or an approved Building Department grading permit for survey purposes. Catch basins shall be installed and connected to pipe lines leading to storm sewers or drainageways.

B. Extension of streets to subdivisions. The extension of subdivision streets to the intercepting paving line of existing streets with which subdivision streets intersect shall be graded for the full right-of-way width and improved to a minimum street structural section and width of 24 feet.

C. ~~Local and minor collector~~ S~~s~~treets within the rights-of-way abutting a subdivision shall:

a. B~~b~~e graded for the full right-of-way width and approved in accordance with the West Linn Public Works Design Standards;

b. Install pedestrian and bicycle infrastructure and two full travel lanes adjacent to the subdivision in accordance with CDC 85.200.A(3);

c. Install required stormwater and utility facilities adjacent to the subdivision in accordance with the West Linn Public Works Design Standards; and

d. Comply with adopted West Linn Public Works Design Standards.

~~to the City's permanent improvement standards and specifications. The City Engineer shall review the need for street improvements and shall specify whether full street or partial street improvements shall be required. The City Engineer shall also specify the extent of storm drainage improvements required. The City Engineer shall be guided by the purpose of the City's systems development charge program in determining the extent of improvements which are the responsibility of the subdivider.~~

D. Monuments. Upon completion of the first pavement lift of all street improvements, monuments shall be installed and/or reestablished at every street intersection and all points of curvature and points of tangency of street centerlines with an iron survey control rod. Elevation benchmarks shall be established at each street intersection monument with a cap (in a monument box) with elevations to a U.S. Geological Survey datum that exceeds a distance of 800 feet from an existing benchmark.

E. Storm detention and treatment. For Type I, II and III lands (refer to definitions in Chapter 02 CDC), a registered civil engineer must prepare a storm detention and treatment plan, at a scale sufficient to evaluate all aspects of the proposal, and a statement that demonstrates:

1. The location and extent to which grading will take place indicating general contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed.

2. All proposed storm detention and treatment facilities comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards.

3. There will be no adverse off-site impacts, including impacts from increased intensity of runoff downstream or constrictions causing ponding upstream.

4. There is sufficient factual data to support the conclusions of the plan.

5. Per CDC 99.035, the Planning Director may require the information in subsections (E)(1), (2), (3) and (4) of this section for Type IV lands if the information is needed to properly evaluate the proposed site plan.

F. Sanitary sewers. Sanitary sewers shall be installed ~~to City standards~~in accordance with the West Linn Public Works Design Standards to serve the subdivision and to connect the subdivision to existing mains.

1. If the area outside the subdivision to be directly served by the sewer line has reached a state of development to justify sewer installation at the time, the Planning Commission may recommend to the City Council construction as an assessment project with such arrangement with the subdivider as is desirable to assure financing their share of the construction.

2. If the installation is not made as an assessment project, the City may reimburse the subdivider an amount estimated to be a proportionate share of the cost for each connection made to the sewer by property owners outside of the subdivision for a period of 10 years from the time of installation of the sewers. The actual amount shall be determined by the City Administrator considering current construction costs.

G. Water system. Water lines with valves and fire hydrants providing service to each building site in the subdivision and connecting the subdivision to City mains shall be installed. Prior to starting building construction, the design shall take into account provisions for extension beyond the subdivision and to adequately grid the City system. Hydrant spacing is to be based on accessible area served according to ~~the City Engineer's recommendations~~

~~and~~ City standards. If required water mains will directly serve property outside the subdivision, the City may reimburse the developer an amount estimated to be the proportionate share of the cost for each connection made to the water mains by property owners outside the subdivision for a period of 10 years from the time of installation of the mains. If oversizing of water mains is required to areas outside the subdivision as a general improvement, but to which no new connections can be identified, the City may reimburse the developer that proportionate share of the cost for oversizing. The actual amount and reimbursement method shall be as determined by the City Administrator considering current or actual construction costs.

H. Sidewalks.

1. Sidewalks shall be installed on both sides of a public street and in any special pedestrian way within the subdivision, except that in the case of primary or secondary arterials, or special type industrial districts, or special site conditions, the Planning Commission may approve a subdivision without sidewalks if requested by the applicant as part of a discretionary review, and only if alternate pedestrian routes are available.

In the case of the ~~double-frontage~~through lots, provision of sidewalks along the frontage not used for access shall be the responsibility of the developer. On all other frontages, p~~P~~roviding front and side yard sidewalks shall be the responsibility of the land owner at the time a request for a building permit is received. Additionally, deed restrictions and CC&Rs shall reflect that sidewalks are to be installed prior to occupancy and it is the responsibility of the lot or homeowner to provide the sidewalk, except as required above for ~~double-frontage~~through lots.

2. At the applicant's option, o~~O~~n local streets serving only single-family dwellings, sidewalks may be constructed during home construction, but a letter of credit shall be required from the developer to ensure construction of all missing sidewalk segments within four years of final plat approval pursuant to CDC 91.010(A)(2).

3. The sidewalks shall be located and designed consistent with the street cross sections in Exhibits 6-9 of the 2016 Transportation System Plan ~~measure at least six feet in width and be separated from the curb by a six-foot minimum width planter strip~~. If requested by the applicant through a discretionary review, r~~R~~eductions in sidewalk widths to preserve trees or other topographic features, inadequate right-of-way, or constraints, may be permitted if approved by the City Engineer in consultation with the Planning Director.

4. Sidewalks ~~should~~ shall be buffered from the roadway on high volume arterials or collectors by landscape strip or berm of three and one-half-foot minimum width.

5. If requested by the applicant through a discretionary review, t~~T~~he City Engineer may allow the installation of sidewalks on one side of any street only if the City Engineer finds that the presence of any of the factors listed below justifies such waiver:

a. The street has, or is projected to have, very low volume traffic density;

b. The street is a dead-end street;

c. The housing along the street is very low density; or

d. The street contains exceptional topographic conditions such as steep slopes, unstable soils, or other similar conditions making the location of a sidewalk undesirable.

I. Bicycle routes. As part of a discretionary review, and i~~I~~f appropriate to the extension of a system of bicycle routes, existing or planned, the Planning Commission may require the installation of separate bicycle lanes within streets and separate bicycle paths.

J. Street name signs. All street name signs and traffic control devices for the initial signing of the new development shall be installed by the City with sign and installation costs paid by the developer.

K. Dead-end street signs. Signs indicating "future roadway" shall be installed at the end of all discontinued streets. Signs shall be installed by the City per City standards, with sign and installation costs paid by the developer.

L. Signs indicating future use shall be installed on land dedicated for public facilities (e.g., parks, water reservoir, fire halls, etc.). Sign and installation costs shall be paid by the developer.

M. Street lights. Street lights shall be installed and shall be served from an underground source of supply. The street lighting shall meet IES lighting standards. The street lights shall be the shoe-box style light (flat lens) with a 30-foot bronze pole in residential (non-intersection) areas. The street light shall be the cobra head style (drop lens) with an approximate 50-foot (sized for intersection width) bronze pole. The developer shall submit to the City Engineer for approval of any alternate residential, commercial, and industrial lighting, and alternate lighting fixture design. The developer and/or homeowners association is required to pay for all expenses related to street light energy and maintenance costs until annexed into the City.

N. Utilities. The developer shall make necessary arrangements with utility companies or other persons or corporations affected for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting, and cable television, shall be placed underground. Exceptions shall be permitted in those cases where adjacent properties have above-ground utilities and where the development site's frontage is under 200 feet and the site is less than one acre. High voltage transmission lines, as classified by Portland General Electric or electric service provider, are also exempted. Where adjacent future development is planned or proposed, conduits may be required at the direction of the City Engineer.

O. Curb cuts and driveways. Curb cuts and driveway installations are not required of the subdivider at the time of street construction, but, if installed, shall be according to City standards. Proper curb cuts and hard-surfaced driveways shall be required at the time buildings are constructed.

P. Street trees. Street trees shall be provided by the City Parks and Recreation Department in accordance with standards as adopted by the City in the Municipal Code. The fee charged the subdivider for providing and maintaining these trees shall be set by resolution of the City Council.

Q. Joint mailbox facilities shall be provided in all residential subdivisions, with each joint mailbox serving at least two, but no more than eight, dwelling units. Joint mailbox structures shall be placed in the street right-of-way adjacent to roadway curbs. Proposed locations of joint mailboxes shall be designated on a copy of the tentative plan of the subdivision, and shall be approved as part of the tentative plan approval. In addition, sketch plans for the joint mailbox structures to be used shall be submitted and approved by the City Engineer prior to final plat approval, to ensure they do not conflict with any other City standards. (Ord. 1180, 1986; Ord. 1192, 1987; Ord. 1287, 1990; Ord. 1321, 1992; Ord. 1339, 1993; Ord. 1401, 1997; Ord. 1408, 1998; Ord. 1442, 1999; Ord. 1650 § 1 (Exh. A), 2016; Ord. 1662 § 17, 2017)

92.020 IMPROVEMENTS IN PARTITIONS

The same improvements shall be installed to serve each parcel of a partition as are required of a subdivision, as specified in CDC 92.010. However, if the approval authority finds that the nature of development in the vicinity of the partition makes installation of some improvements unreasonable, at the written request of the applicant those improvements may be waived. If the street improvement requirements are waived, the applicant shall pay an in-lieu fee for off-site street improvements, pursuant to the provisions of CDC 85.200(A)(1).

In lieu of accepting an improvement, the Planning Director may recommend to the City Council that the improvement be installed in the area under special assessment financing or other facility extension policies of the City. (Ord. 1192, 1987; Ord. 1287, 1990; Ord. 1442, 1999; Ord. 1544, 2007; Ord. 1636 § 59, 2014)

92.030 IMPROVEMENT PROCEDURES

In addition to other requirements, public improvements installed by the developer, either as a requirement of these regulations or at the developer's own option, shall conform to the requirements of this title and permanent improvement standards and specifications adopted by the City and shall be installed in accordance with the following procedure:

A. Improvement work shall not be commenced until plans have been checked for adequacy and approved by the City. To the extent necessary for evaluation of the proposal, the improvement plans may be required before approval of the tentative plan of a subdivision or partition. Plans shall be prepared in accordance with the requirements of the City.

B. Improvement work shall not be commenced until ~~the City has been notified in advance, and if work has been discontinued for any reason, it shall not be resumed until the City has been notified.~~a preconstruction meeting has been held.

C. Improvements shall be constructed under the City Engineer's supervision and authorization. The City may require changes in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change.

D. All underground utilities, sanitary sewers, and storm drains installed in streets by the subdivider or by any utility company shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length obviating the necessity for disturbing the street improvements when service connections are made.

E. A digital ~~and mylar~~ map showing all public improvements as built shall be filed with the City Engineer upon completion of the improvements. (Ord. 1408, 1998)

92.040 SPECIFICATIONS FOR IMPROVEMENTS

The City Engineer shall prepare and submit to the City Council specifications to supplement the standards of this title based on engineering standards appropriate for the improvements concerned. Specifications shall be prepared for the design and construction of required public improvements, such other public facilities as a developer may elect to install, and private streets.

92.050 CHANGES IN SUBDIVISION PHASE NUMBERS PROHIBITED

Subdivision phase numbers shall remain the same from tentative approval through final platting. The only permitted change would be the addition of an alphabetic suffix. For example, tentatively approved Columbia Heights III could be broken down at final platting into Columbia Heights III-A, III-B, III-C, etc. It could not be broken down numerically into Columbia Heights III, IV, and V.

Chapter 99

PROCEDURES FOR DECISION MAKING: QUASI-JUDICIAL

Commentary:

See the commentary box in Section 99.035.

Sections:

99.010 PURPOSE
99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES
99.033 FEES
99.035 ADDITIONAL INFORMATION REQUIRED, WAIVER OF REQUIREMENTS AND REPORT REQUIRED
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99.290 ACTION ON APPEAL OR REVIEW – TIME LIMIT AND AUTHORITY TO CHANGE DECISION
99.300 PARTICIPATION BY MEMBERS OF APPROVAL AUTHORITY IN DECISION AND VOTING
99.320 DENIAL OF APPLICATION – RESUBMITTAL
99.325 EXTENSIONS OF APPROVAL
99.330 REVOCATION OF APPROVALS – FAILURE TO FULFILL CONDITIONS

99.010 PURPOSE

The purpose of this chapter is to establish procedures applicable to the Community Development Code for the consideration of development applications, for the consideration of quasi-judicial Comprehensive Plan amendments, and for the consideration of appeals or petitions for review of decisions. (Ord. 1474, 2001; Ord. 1568, 2008)

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

A. Who may apply.

1. Applications for approval required under this chapter may be initiated by:

a. The owner of the property that is the subject of the application or the owner's duly authorized representative;

b. The purchaser of such property who submits a duly executed written contract or copy thereof, which has been recorded with the Clackamas Clerk;

c. A lessee in possession of such property who submits written consent of the owner to make such application; or

d. Motion by the Planning Commission or City Council.

2. Any person authorized by this chapter to submit an application for approval may be represented by an agent who is authorized in writing by such a person to make the application.

B. Pre-application conferences.

1. Subject to subsection (B)(4) of this section, a pre-application conference is required for, but not limited to, each of the following applications:

a. Boundary changes, per Chapter 81 CDC;

b. Amendments to the Comprehensive Plan;

c. Amendments to the Zoning Map;

d. Conditional uses;

e. Design review (Class I and Class II);

f. Historic Design Review (Class II);

g. Designation of a historic resource or removal of a historic resource designation;

h. Demolition of a historic resource;

i. Relocation of a historic resource;

j. New construction or remodels in the Willamette Falls Drive Commercial Design District, except as provided for in subsection (B)(2)(h) of this section;

k. Minor partitions;

l. Land divisions;

m. Enlargement of non-conforming uses or alteration of a structure containing a non-conforming use;

n. Planned unit developments;

o. Variances;

p. Development subject to Chapter 32 CDC, Water Resource Area Protection;

q. Development subject to Chapter 27 CDC, Flood Management Areas;

r. Development subject to Chapter 28 CDC, Willamette and Tualatin River Protection;

s. Right-of-way and easement vacations; and

t. Extensions of approval with modifications to original approval.

2. Subject to subsection (B)(3) of this section, the following applications are exempt from subsection (B)(1) of this section, Pre-Application Conference:

a. Signs;

b. Home occupations;

c. Temporary use permits;

d. Sidewalk uses;

e. Final plats;

f. Property line adjustments;

g. Re-vegetation plans;

h. Painting, signage, awnings, or architectural in-kind replacements in the Willamette Falls Drive Commercial Design District;

i. Appeals of land use decisions; and

j. Extensions of approval with no modification to original approval.

3. The Planning Director shall have the authority to require a preapplication conference prior to the submittal of any application that is not listed in subsection (B)(1) of this section if they determine that the potential development is of significant complexity or magnitude to merit a preapplication conference.

4. The Planning Director may waive the requirement for a pre-application conference for any application if they determine that such a conference is not warranted. Upon making such a determination, the Planning Director shall provide written notification (i.e., e-mail or letter) to the Planning Commission and applicable neighborhood association.

5. At such conference, the Planning Director or designee shall:

a. Cite the Comprehensive Plan map designation;

b. Cite the applicable substantive and procedural ordinance provisions;

c. Provide technical data and assistance which will aid the applicant;

d. Identify other policies and regulations that relate to the application;

e. Identify other pertinent factors that relate to the application; and

f. Provide the applicant with a written description of all rights for appeal and provide access to all administrative procedures.

6. The failure of the Director to provide any of the information required by this section shall not constitute a waiver of the standards, criteria, or requirements of the application.

7. At least 10 days prior to the scheduled date of the conference, the City shall make the pre-application conference schedule available to the public. Within 10 days following the conference, the City shall make staff-prepared written notes summarizing the contents of the meeting available to the public. Failure to comply with this section due to technical or administrative problems is not a procedural defect entitling any party to a delay in the hearing process.

8. The Planning Director shall prepare administrative procedures designed to allow citizens to attend and participate in pre-application conferences for applications. Lack of neighborhood association participation in a pre-application conference is not a procedural defect entitling any party to a delay in the hearing process.

9. If the applicant is not the owner of the subject property, the applicant shall provide written evidence that the owner has consented to the pre-application conference prior to it being scheduled.

C. The requirements for making an application.

1. The application shall be made on forms provided by the Director as provided by CDC 99.040(A)(1);

2. The application shall be complete and shall contain the information requested on the form, shall address the appropriate submittal requirements and approval criteria in sufficient detail for review and action, and shall be accompanied by the deposit or fee required by CDC 99.033. No application will be accepted if not accompanied by the required fee or deposit. In the event an additional deposit is required by CDC 99.033 and not provided within the time required, the application shall be rejected without further processing or deliberation and all application materials shall be returned to the applicant, notwithstanding any determination of completeness. (Ord. 1527, 2005; Ord. 1568, 2008; Ord. 1590 § 1, 2009; Ord. 1599 § 6, 2011; Ord. 1614 § 14, 2013; Ord. 1622 § 30, 3014; Ord. 1635 § 36, 2014; Ord. 1636 § 60, 2014; Ord. 1638 § 3, 2015; Ord. 1675 § 55, 2018)

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)

99.035 ADDITIONAL INFORMATION REQUIRED, WAIVER OF REQUIREMENTS AND REPORT REQUIRED

Commentary:

Section 99.035 is referenced in multiple chapters of the CDC, where the Planning Director reserves the right to require additional information in an application. In order to ensure that the applicant is aware of any additional submittal requirements, the proposed amendments require staff to communicate the need for additional information at the pre-app or before the application is submitted.

A. The Planning Director may require information in addition to that required by a specific chapter in the Community Development Code; provided, that:

1. The chapter expressly authorizes that additional information may be required;

2. The information is needed to properly evaluate the proposed site plan or proposal;

3. The requirement for additional information is communicated to the applicant during the pre-application conference or prior to application submittal; and

3. The need can be justified on the basis of a special or unforeseen circumstance.

B. The Planning Director may waive a specific requirement for information or a requirement to address a certain approval standard subject to the provisions of subsection C of this section provided:

1. The Planning Director finds that specific information is not necessary to properly evaluate the application; or

2. The Planning Director finds that a specific approval standard is not applicable to the application.

C. Where a requirement is waived, the Planning Director shall cite in the staff report on the application the specific requirements waived and the reasons for the waiver. The decision of the Planning Director to waive the requirement is subject to review and denial by the approval authority or the appeal authority. (Ord. 1568, 2008)

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 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~~ shall 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; Ord. 1613 § 23, 2013; Ord. 1635 § 37, 2014)

99.040 DUTIES OF DIRECTOR

A. The Director shall:

1. Prepare application forms made pursuant to the standards contained in the applicable State law, Comprehensive Plan and implementing ordinance provisions;

2. Accept all development applications that comply with the provisions of CDC 99.030;

3. After accepting an application pursuant to this chapter:

a. Determine whether an application is complete, and comply with State statutes governing the completeness determination for applications. The determination of the Director is subject to review by the approval authority in its deliberation on the application;

b. Give notice as provided by CDC 99.080 and 99.090;

c. Prepare a staff report which shall include findings as to whether or not the application meets the approval criteria of the applicable Community Development Code sections as presented in the application, and whether or not the criteria can be met with conditions;

d. Make the application, all documents or evidence relied upon by the applicant and applicable criteria available at least 20 days prior to the hearing or date of the Director's decision. Make the staff report available at least 10 days prior to the scheduled date of the public hearing(s);

e. Act on the development application pursuant to CDC 99.060(A) and 99.160 or cause a hearing to be held pursuant to CDC 99.060(B) through (D) and CDC 99.170 through 99.230, unless the applicant has requested or consented to a delay;

4. Administer the hearings process pursuant to CDC 99.170 through 99.230;

5. Maintain a register of all applications that have been filed for a decision. The register shall at all times identify at what stage the application is in the process. The register shall be posted on the City website unless technical problems prevent this;

6. File notice of the final decision in the records of the Community Development Department and mail a copy of the notice of the final decision to the applicant and all parties with standing.

The notice of the final decision shall contain the information set forth under CDC 99.130(B);

7. Maintain and preserve the file for each application. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given pursuant to CDC 99.080 and the accompanying affidavits; the application and all supporting information; the staff report; the final decision including the findings, conclusions, and conditions, if any; all correspondence; the minutes of any meetings at which the application was considered; and any other exhibit(s), information, or documentation which was considered by the hearing body with respect to the application; and

8. Administer the appeals and review process pursuant to CDC 99.240 through 99.320. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1621 § 25, 2014)

99.060 APPROVAL AUTHORITY

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

A. Planning Director authority. The Planning Director shall have the authority to:

1. Approve, deny, or approve with conditions the following applications:

a. A temporary use or structure application for a period no more than 120 days, including all extensions (Chapter 35 CDC), and not associated with another land use approval.

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).

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

j. *Repealed by Ord. 1735.*

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

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

m. A sign application (Chapter 52 CDC).

n. Sidewalk use permit (Chapter 53 CDC).

o. Flood management area permit (Chapter 27 CDC).

p. *Repealed by Ord. 1622.*

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.

v. Class I Historic Design Review (Chapter 25 CDC).

w. A demolition permit for a non-contributing or not in period primary structure or an accessory structure (Chapter 25 CDC).

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 application pursuant to Chapter 105 CDC, excluding applications requesting the designation or removal of a designation for a historic resource.

2. Approve, deny, or approve with conditions the following applications:

a. A temporary use or structure application (Chapter 35 CDC) for a minimum of 121 days to no more than one year, or an application associated with another land use approval.

b. A conditional use (Chapter 60 CDC).

c. Enlargement of a non-conforming use or alteration for a structure containing a non-conforming use (Chapter 66 CDC).

d. Enlargement or alteration of a non-single-family residential non-conforming use (Chapter 66 CDC).

e. Class II variance or special waiver (Chapter 75 CDC).

f. Subdivision (Chapter 85 CDC).

g. Planned unit development (Chapter 24 CDC).

h. Design review, Class II (Chapter 55 CDC).

i. Parks design review, Class II (Chapter 56 CDC).

j. Any matter not specifically assigned to another approval authority.

k. 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.

C. City Council authority. The Council shall have the authority to:

1. Approve, deny, or approve with conditions applications for the following development applications:

a. A quasi-judicial Comprehensive Plan Map amendment (Chapter 105 CDC).

b. A quasi-judicial zone change application pursuant to Chapter 105 CDC.

c. Boundary change proposals (Chapter 81 CDC).

2. Consider an appeal or review of a decision made by the Planning Director under the provisions of CDC 99.240(A) and 99.080(B).

3. Consider an appeal or review of a decision made by the Planning Commission or Historic Review Board, whether on the Council's own motion, or otherwise as provided by CDC 99.240.

4. Decide an appeal of the Director's interpretation of zoning boundaries as provided by CDC 05.040.

5. Revoke or modify an approval as provided by CDC 99.330 for any application approved by the City Council, including an application approved by the City Council on appeal from another City decision-making authority.

D. Historic Review Board authority. The Historic Review Board shall review an application for compliance with Chapters 25 and 58 CDC, as applicable. The Historic Review Board shall have the authority to:

1. Approve, deny, or approve with conditions an application regarding the following:

a. Class II Historic Design Review;

b. A demolition permit for a historic landmark or primary contributing structure within a historic district;

c. Relocation of a historic resource;

d. Revocation or modification of an approval as provided by CDC 99.330 for any application approved by the Historic Review Board; and

e. An extension of an approval when the Historic Review Board acted as the initial decision-making authority.

2. Make recommendations to the approval authority specified in this section regarding the following:

a. Designation of a historic resource;

b. Removal of historic resource designation;

c. Class I or Class II design review on a property within the Willamette Falls Drive Commercial Design District that is not a historic landmark or within the Willamette Historic District;

d. New construction within the Willamette Falls Drive Commercial Design District that is not a historic landmark or within the Willamette Historic District;

e. A partition or subdivision of property containing a historic resource;

f. Conditional use of property containing a historic resource.

E. Expedited land divisions. Expedited land divisions shall be processed by the Planning Commission without a public hearing pursuant to Oregon Revised Statutes (ORS) 197.360 through 197.380. Pursuant to ORS 197.360(3), the following City permits may be processed concurrently with an expedited land division application:

1. Pursuant to ORS 197.360(3), the following City permits may be processed concurrently with an expedited land division application:

a. Planned unit development.

b. Willamette River Greenway.

c. Flood management area.

d. Tualatin River.

e. Water resource area.

f. Design review.

2. The Planning Commission shall make their decision based solely upon the record and staff recommendation.

3. Appeals of the Planning Commission decision on an expedited land division shall be reviewed pursuant to Chapter 197 ORS. (Ord. 1442, 1999; Ord. 1463, 2000; Ord. 1474, 2001; Ord. 1510, 2004; Ord. 1525, 2005; Ord. 1545, 2007; Ord. 1547, 2007; Ord. 1565, 2008; Ord. 1568, 2008; Ord. 1589 § 1 (Exh. A), 2010; Ord. 1597 §§ 17, 18, 2010; Ord. 1613 § 24, 2013; Ord. 1614 § 15, 2013; Ord. 1622 §§ 9, 28, 2014; Ord. 1635 § 38, 2014; Ord. 1638 § 3, 2015; Ord. 1655 § 9, 2016; Ord. 1735 § 5 (Exh. D), 2022)

99.070 CONSOLIDATION OF PROCEEDINGS

A. When an applicant requests more than one approval, and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one proceeding. In such cases, the hearings shall be held by the approval authority having original jurisdiction over one of the applications under CDC 99.060, in the following order of preference: City Council, Planning Commission or Historic Review Board, or the Planning Director.

1. However, expedited land division applications shall be processed as described in Chapter 197 ORS, regardless of the number of approvals requested.

B. When an applicant requests to undertake preliminary work, for site preparation or analysis, the Director may allow decisions within the Director's authority to precede the subsequent decision required for review by the decision-making body. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1635 § 39, 2014)

99.080 NOTICE

Notice shall be given in the following ways:

A. Class A Notice. Notice of proposed action or a development application pursuant to CDC 99.060 shall be given by the Director in the following manner:

1. At least 20 days prior to the scheduled hearing date notice shall be sent by mail to:

a. The applicant or the applicant's agent, and the property owner of record on the most recent property tax assessment roll where such property is located.

b. All property owners of record on the most recent property tax assessment roll where such property is located within 500 feet of the site.

c. Any affected governmental agency which has entered into an intergovernmental agreement with the City which includes provision for such notice; plus, where applicable, the Oregon Department of Transportation, Tri-Met, neighboring local jurisdictions, Clackamas County Department of Transportation and Development, and Metro.

d. The affected recognized neighborhood association or citizens advisory committee.

e. For a hearing on appeal or review, all parties and persons with standing described in CDC 99.140 to an appeal or petition for review.

2. At least 10 days prior to the hearing or meeting date, notice shall be given in a newspaper of general circulation in the City. An affidavit of publication shall be made part of the administrative record.

a. Decisions pursuant to CDC 99.060(A), Planning Director authority, are exempt from the requirements of this subsection.

3. At least 10 days prior to the hearing or meeting date, the Planning Director shall cause a sign to be placed on the property which is the subject of the decision or, if the property does not have frontage on a public street, adjacent to the nearest public street frontage in plain view and shall state, "This property is the subject of a land use decision," with the type of use or request indicated.

If the application is not located adjacent to a through street, then an additional sign shall be posted on the nearest through street.

4. At least 10 days but no more than 40 days prior to hearing of a proposed zone change for manufactured home parks, notice shall be given to the respective manufactured home park residents.

5. The Director shall cause an affidavit of mailing of notice and posting of notice to be filed and made part of the administrative record.

6. At the conclusion of the land use action the signs shall be removed.

B. Class B Notice. Notice of a proposed action on a development application pursuant to CDC 99.060 shall be given by the Director in the following manner:

1. At least 14 days prior to the decision date, a notice shall be sent by mail to:

a. The applicant or their agent;

b. The affected recognized neighborhood association or citizens advisory committee; and

c. All property owners of record within 300 feet of the site perimeter;

2. At least 10 days prior to the earliest date that the approval authority can take action on the application, the applicant shall place a sign, provided by the Community Development Department, on the subject property in plain view. The sign shall state, "This property is the subject of a land use decision," with the type of use or request indicated.

3. The Director shall cause an affidavit of mailing of notice and posting of notice to be filed and made part of the administrative record.

4. At the conclusion of the land use action the signs shall be removed.

C. Notice for expedited and division applicants shall comply with the requirements of Chapter 197 ORS.

D. Notice for a boundary change application shall comply with the requirements of ORS 197.763, Chapter 222 ORS, and the Metro Code.

E. Table of notices. The following notice summary identifies the appropriate type of notice for the various land use applications of CDC 99.060.

Land Use Action	Type of Notice
Amendment or Modification of Application or Permit	Same as original application
Appeal or Review of Decision	A
Boundary Change	Special
Code Interpretation	Notice to parties requesting the interpretation
Comprehensive Plan:	
Map Amendment	A
Plan/Code Text Amendment (Legislative Action)	A***
Conditional Use	A
Design Review:	
Class I	B
Class II	A
Determination of Unlisted Use	No Notice
Enlarge or Alter Non-conforming Use/Structure:	
Commercial or Industrial	A
Single-Family Residential	B
Erosion and Sediment Control Permit	No Notice
Expedited Land Division	per State statute requirements
Extensions of Approvals	Same notice as original application
Flood Management Area	B**
Final Plat and Partition Plat	No Notice
Historic Resources:	

Land Use Action		Type of Notice
	Class I Historic Design Review	B
	Class II Historic Design Review	B
	Designation or Removal of Historic Resource Designation	A
	Demolition	A
	Relocation	B
Home Occupation		No Notice
Minor Partition		A
Planned Unit Development		A
Property Line Adjustment		No Notice
Revocation of Approval		A
Sidewalk Use Permit		No Notice
Sign Permit		No Notice
Subdivision		A
Temporary Use Permit:		
	60 days or less; 60-day extension	No Notice
	Over 60 days, up to 1 year	A
Tualatin River Setback:		
	Uses permitted outright and not subject to design review	No Notice
	Uses permitted outright and subject to design review	B
	Uses requiring conditional use permit and design review	A
Street Vacations		(per State statute requirements)
Variances:		
	Class I (involves a small change with minor or no effect)	B
	Class II (involves a significant change from code requirements)	A
Water Resource Area Permit (NDW)		A**
Willamette River Greenway:		
	Development Permit	A**
	Uses requiring conditional use permit and design review	A**
Zone Change		A

**Plus COE/DSL is notified
***Plus DLCD notice
(Ord. 1425, 1998; Ord. 1474, 2001; Ord. 1545, 2007; Ord. 1547, 2007; Ord. 1565, 2008; Ord. 1568, 2008; Ord. 1589 § 1 (Exh. A), 2010; Ord. 1613 § 25, 2013; Ord. 1614 § 16, 2013; Ord. 1621 § 25, 2014; Ord. 1635 § 40, 2014; Ord. 1636 § 61, 2014)

99.090 CONTENTS OF NOTICE

A. Notices mailed pursuant to this code shall comply with applicable provisions of the Oregon Revised Statutes (ORS). Except for expedited land division review, for which Chapter 197 ORS shall apply, notice given to persons entitled to mailed or published notice pursuant to CDC 99.060 shall:

1. Explain the type of application and what proposed uses could be authorized.

2. List the applicable criteria from the ordinance and plan.

3. Set forth street address (if existing) and other easily understood geographical reference of the subject property.

4. State the date, time, and location of hearing or, for the Planning Director's decisions, the earliest date upon which the Director will make a decision.

5. State that failure to raise an issue in a hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue, precludes appeal to LUBA on that issue.

6. Include the name of government contact and phone number.

7. State that the application, all documents or evidence relied upon by the applicant and applicable criteria are available for inspection at no cost, and copies at reasonable cost.

8. State that a copy of the staff report will be available for inspection at no cost at least 10 days prior to the hearing, and copies at reasonable cost.

9. A statement that public and written testimony are invited, and including a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

B. In addition to the ORS requirements, the notice shall identify the following:

1. The type of land use action proposed (e.g., "four-lot subdivision").

2. Community Development Department file number. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1621 § 25, 2014)

99.100 MECHANICS OF GIVING NOTICE AND FAILURE TO RECEIVE NOTICE

A. The notification list used for giving notice required by this code under CDC 99.080 shall be compiled from the most recent property tax assessment roll.

B. The failure of a property owner to receive notice shall not invalidate the action provided a good faith attempt was made to notify all persons entitled to notice.

C. Personal notice is deemed given when the notice is deposited with the United States Postal Service. Published notice is deemed given on the date it is published.

D. In computing the length of time that notice was given, the first date notice is given shall be excluded and the day of the hearing or decision by the Director shall be included. (Ord. 1401, 1997; Ord. 1568, 2008)

99.110 DECISION-MAKING PROCESS OF APPROVAL AUTHORITY

A. The decision shall be based on proof by the applicant that the application fully complies with:

1. The applicable standards of any provision of this code or other applicable implementing ordinance.

B. Consideration may also be given to:

1. A mistake or inconsistency in the Comprehensive Plan or Zoning Map as it relates to the property which is the subject of the development application; and

2. Factual oral testimony or written statements from the parties, neighborhood plans, other persons and other governmental agencies relevant to the existing conditions or factors in subsection A or (B)(1) of this section.

C. In all cases, the decision shall include a statement in a form which includes findings as to whether or not the application meets the approval criteria of the applicable Community Development Code sections.

D. The approval authority may:

1. Adopt the findings and conclusions contained in the staff report;

2. Adopt the findings and conclusions of a lower approval authority;

3. Adopt its own findings and conclusions;

4. Adopt the findings and conclusions submitted by any party; or

5. Adopt the findings and conclusions from another source, either with or without modifications, having made a tentative decision and having directed the staff to prepare findings for review and to provide an opportunity for all parties to comment upon them.

E. The decision may be for denial, approval, or approval with conditions, pursuant to CDC 99.160 and 99.170, where such conditions are necessary to satisfy the applicable standards of any provision of this code or other applicable implementing ordinance.

F. The final decision shall be a decision which is in writing and which has been:

1. Formally adopted by the decision-making authority and filed with the Director within 14 working days of the formal adoption of the decision; or

2. Signed by the Director in the case of a decision by the Director and filed as a final decision within 14 working days of the signed decision; or

3. Formally adopted by the Council and signed by the Mayor or the president of the Council in the case of an appeal. (Ord. 1474, 2001; Ord. 1568, 2008)

99.120 AMENDMENTS

This section explains how amendments to projects subject to the quasi-judicial decision making process are processed.

A. An amendment application shall be required if the Planning Director determines that the proposed revisions will change the project by a factor greater than 10 percent in a quantifiable manner (e.g., number of proposed lots, square footage of proposed buildings, number of parking spaces, relocation of building footprints). Non-quantifiable changes shall also require an amendment if they result in significant differences between the approved project and the revised project, or if the changes call into question compliance with a relevant approval criterion.

B. Amendments shall be reviewed by the initial decision-making authority. For example, if the Planning Commission heard the application initially, then it would hear the amendment application.

C. Rather than provide full submittal, the Planning Director shall identify the parameters of the submittal appropriate to the amendment and applicable approval criteria. For example, if the applicant only requests to redesign the architecture of a building, but not increase square footage or building mass, then the submittal of a site plan, architectural elevations, material/color board, and narrative specific to the architecture and relevant design review approval criteria would be appropriate. Conversely, no new landscaping, grading plans, etc., would be necessary since no changes are proposed for those items. The submittal should be comprehensive and sufficient to provide the decision-making authority with all necessary information while not being redundant and requiring information which is already part of the record of the original application.

D. If the proposed revisions will change the project by a factor greater than 25 percent in a quantifiable manner, or if the land area upon which the project is proposed changes, then a new application shall be required. (Ord. 1568, 2008)

99.125 STAGED OR PHASED DEVELOPMENT

An applicant may elect to develop a proposed project in phases. The timing of each development phase shall be set forth in the application and subject to approval by the appropriate approval authority. Each phase shall meet all applicable development standards individually (e.g., access, parking, landscaping, utilities, etc.) without having to rely upon subsequent phases. Each phase shall also install all necessary improvements to serve the development within that phase. (Ord. 1474, 2001; Ord. 1568, 2008)

99.130 NOTICE OF FINAL DECISION

A. The final decision by the Planning Director shall be filed in the records of the Community Development Department after the decision is signed by the Planning Director, and notice thereof shall be mailed to the applicant, all parties to the matter as established under CDC 99.140, and those persons who requested copies of such notice.

B. The final decision by the Planning Commission, Historic Review Board, or City Council shall be filed in the records of the Community Development Department, and notice thereof shall be mailed to the applicant, all parties to the matter as established under CDC 99.140, and those people requesting copies of such notice.

C. Notice of a final decision shall conform to applicable provisions of the Oregon Revised Statutes.

D. The appeal period is as provided in CDC 99.230. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1590 § 1, 2009; Ord. 1621 § 25, 2014)

99.140 ESTABLISHING STANDING TO APPEAL

A. Any person or recognized neighborhood association with standing may pursue an appeal or seek review of any land development decision. Standing is established in the following way:

B. The person or recognized neighborhood association appeared before an approval authority other than the Director, either orally or in writing, and provided their name and address; signed the 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; Ord. 1622 § 8, 2014)

99.160 DECISION BY DIRECTOR

A. Pursuant to CDC 99.060(A), the Director is authorized to make certain decisions, and no hearing shall be held except where the Director has an interest in the outcome of the decision, due to some past or present involvement with the applicant or other interested persons or in the property or surrounding property, and cannot render an impartial decision. In such cases, the application shall be reviewed by the Director's designee, and in the event the designee cannot render a decision, the application shall be subject to the jurisdiction of the Planning Commission.

B. A decision made by the Director shall be made in accordance with the provisions of CDC 99.110, and a record shall be made which shall include:

1. A copy of the application and all supporting information, plans, exhibits, graphics, etc.;

2. All correspondence relating to the application;

3. All information considered by the Director in making the decision;

4. The staff report of the Director prepared under CDC 99.040(A)(3)(c);

5. A list of the conditions, if any are attached, to the approval of the application;

6. A copy of the notice which was given pursuant to CDC 99.080(A), and accompanying affidavits, and a list of all persons who were given mailed notice; and

7. A signed statement by the Director stating the nature of any past or present involvement with the applicant, other interested persons or the property if the Director makes a decision, and if there could reasonably be expected to be a challenge to the fairness of the decision.

C. A decision made by the Director shall be final as provided by 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. A majority of the members of the Commission or 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; Ord. 1622 § 6, 2014; Ord. 1635 § 41, 2014)

99.170 HEARING PROCEDURES

A. The Planning Commission, City Council, and Historic Review Board shall conduct a public hearing on all matters over which the Board, Commission, or Council has original jurisdiction pursuant to CDC 99.060; and:

1. Determine who qualifies as a party.

2. Regulate the course, sequence, and decorum of the hearing. The sequence of the hearing shall also include the right to establish procedures for continuances of hearings.

3. Dispose of procedural requirements or similar matters.

4. Rule on offers of proof and relevancy of evidence and testimony.

5. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, cross-examination of witnesses and rebuttal testimony.

6. Take such other action appropriate for conduct commensurate with the nature of the hearing.

7. Approve or deny applications or approve with conditions pursuant to CDC 99.110.

B. At the commencement of the hearing, a statement shall be made to those in attendance that:

1. Lists the applicable substantive criteria (by chapter) that apply to the application before the hearing body.

2. States that testimony, arguments and evidence must be directed toward the applicable substantive criteria which the person testifying believes to apply to the decision.

3. States that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes an appeal to the State Land Use Board of Appeals based on that issue.

C. Unless otherwise provided in rules of procedure adopted by the Council, the following rules shall apply to the general conduct of the hearing:

1. The approval authority may ask questions at any time prior to the final decision; however, the answers shall be limited to the substance of the question and if new evidence is admitted after the close of the hearing, upon request, rebuttal shall be allowed;

2. Parties or the Director must receive approval from the approving authority to submit directly questions to other parties or witnesses or the Director;

3. A reasonable amount of time shall be given to persons to respond to questions;

4. No person shall testify without first receiving recognition from the approval authority and stating a full name and address;

5. The approval authority may require that testimony be under oath or affirmation;

6. Audience demonstrations such as applause, cheering and display of signs or other conduct disruptive of the hearing shall not be permitted. Any such conduct may be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer; and

7. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.

D. The Planning Commission or Historic Review Board may refer any matter for Council action on the record made before it.

E. Prior to the conclusion of the initial evidentiary public hearing on the application, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The request shall be granted through one of the following means:

1. Continuation of the public hearing to a date, time, and place certain at least seven days from the date of the initial evidentiary public hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments or testimony. If new written evidence is submitted at the continued hearing, any person may request prior to the conclusion of the continued hearing that the record be left open for at least seven days to submit additional written evidence, arguments, or testimony for the purpose of responding to the new written evidence.

2. Leaving the record open for at least seven days for the presentation of additional written evidence, arguments, or testimony. At the conclusion of this period, any participant may file a request for an opportunity to respond to any additional written evidence, arguments, or testimony. Such a request shall be granted with an additional seven days (at minimum) to file such a written response.

F. If requested, an applicant shall be granted an additional period of at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. Any such time period granted to the applicant shall not be subject to the time limit provisions of Chapter 227 ORS regarding local government hearing procedures found in ORS 227.170 for quasi-judicial applications.

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. 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.

H. If a Planning Commission or a Historic Review Board decision for a project that requires a decision by both bodies is appealed, both decisions shall be automatically appealed and will be reviewed in a combined hearing. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1597 § 19, 2010; Ord. 1604 § 71, 2011; Ord. 1622 § 7, 2014; Ord. 1675 § 56, 2018)

99.180 EX PARTE CONTACTS, IMPARTIALITY, DISQUALIFICATION, AND ABSTENTION

A. Ex parte contacts. The general public has a right to have hearing body members free from pre-hearing or ex parte contacts on the matter to be heard. It is recognized that an equal public right is free access to public officials on any matter.

1. Therefore, hearing body members shall reveal any significant pre-hearing or ex parte contacts with regard to any matter at the commencement of the public hearing on the matter. "Ex parte contacts" are defined as meetings, conversations, or communication outside of the City hearing process between the decision-making authority (e.g., Planning Commission member) and any person concerning the substance of the application. Essentially, both sides of the issue are not fairly represented. An ex parte contact does not compel abstention, but if such contacts have impaired the members' impartiality or ability to vote on the matter, the member shall so state and shall abstain from voting.

2. In addition, parties who had the communication with the member have the right to rebut the substance of the communication, or the subject to which the communication relates, with the member at the commencement of the public hearing on the matter.

3. All ex parte contacts shall be reported on the record.

4. This section shall not apply to Director decisions made under CDC 99.060(A).

5. Members of the City Council, Planning Commission, and Historic Review Board shall be governed by the relevant provisions of Chapters 227 and 244 ORS and the provisions of this section. Where inconsistencies exist, the ORS shall prevail.

B. Challenges to impartiality.

1. An affected party or a member of a hearing body may challenge the qualifications of a member of the hearing body to participate in the hearing and decision. The challenge shall state the facts relied upon by the challenger relating to a person's bias, pre-judgment, personal interest, or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner.

2. The challenged person shall have an opportunity to respond orally to the challenge. The challenge shall be incorporated into the record of the hearing.

3. Any challenge shall require that the hearing body vote on the challenge pursuant to subsection E of this section.

C. Disqualification. No member of a hearing body may participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:

1. Any of the following have a direct or substantial financial interest in the proposal: the member or member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

2. For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.

D. Participation by interested officers or employees. No officer or employee of the City who has a financial or other private interest in a proposal may participate in discussion with, or give an official opinion to, the hearing body on the proposal without first declaring for the record the nature and extent of such interest.

E. Abstention or disqualification. Disqualification for reasons other than the member's own judgment may be ordered by a majority of the members of a hearing body present and voting. The member who is the subject of the

motion for disqualification may not vote on the motion but shall be allowed to participate in the deliberation of the hearing body on that motion.

F. Rights of abstaining or disqualified member of the hearing body.

1. An abstaining or disqualified member of the hearing body shall be counted for purposes of forming a quorum. A member who represents a personal interest at a hearing may do so only after making full disclosure for the record of the hearing, abstaining from voting on the proposal, and vacating the seat on the hearing body.

2. If sufficient members of a hearing body abstain or are disqualified, that renders the hearing body unable to take action on the application consistent with the applicable authority of the hearing body, then the application shall be reviewed as follows:

a. Planning Director disqualified – referred to Planning Director's designee, or if no alternatives are available, referred to the Planning Commission for hearing and decision.

b. Historic Review Board disqualified – referred to Planning Commission for hearing and decision.

c. Planning Commission disqualified – referred to City Council for hearing and decision.

d. City Council disqualified – City Council will hear it and make a decision if the disqualified member's vote is required to achieve a quorum and reach a decision on the matter, and no other person can act in the place of the disqualified person.

e. City Council acting as appellate hearing authority disqualified – decision of the original authority becomes the final City decision.

3. Council members who appear as a party in another hearing process on an application, such as testifying before the Planning Commission in a case that is then appealed to the City Council, shall be disqualified from Council consideration of that application.

4. Council members of a hearing body who participate in a meeting, such as a neighborhood association or a Chamber of Commerce meeting, etc., wherein they state their support or opposition to an application that appears before the City Council, shall be disqualified from the hearing body consideration of that application.

G. A member absent during the presentation of evidence in a hearing may not participate in the deliberations or decision unless the member has reviewed the evidence received. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1604 §§ 72, 73, 2011; Ord. 1635 § 42, 2014)

99.190 CONTINUATION OF HEARING – NOTICE

An approval authority may continue the hearing from time to time to gather additional evidence, to consider the application fully, to comply with State statutes, or to give notice to additional persons. Unless otherwise provided by the approval authority, no additional notice need be given of the continued hearing if the matter is continued to a date certain. (Ord. 1568, 2008)

99.200 EVIDENCE

A. All evidence offered and not objected to may be received unless excluded by the approval authority.

B. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conducting of their everyday affairs.

C. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.

D. Formal rules of evidence, as used in courts of law, shall not apply. (Ord. 1474, 2001; Ord. 1568, 2008)

99.220 RECORD OF PROCEEDINGS

A. A verbatim record of the proceeding shall be made by video recording, or other available means. It shall not be necessary to transcribe testimony. The minutes and other evidence of the proceedings shall be part of the record and the basis for deciding a decision on review. Inadvertent loss of a verbatim record due to technical or mechanical problems unforeseen by the City shall not be grounds for invalidating a public hearing or decision.

B. All exhibits received shall be marked so as to provide identification upon review and shall be part of the record.

C. The official record shall include:

1. All materials, pleadings, memoranda, stipulations, and motions submitted by any party to the proceeding and recorded or considered by the hearings authority as evidence;

2. All materials submitted by the Director to the approval authority with respect to the application;

3. The verbatim record made by video recording or other available means, the minutes of the hearing, and other evidence of the proceedings before the hearings body;

4. The written findings, conclusions, decision and, if any, conditions of approval of the approval authority;

5. All visual displays, both in paper form and in electronic form, presented as part of the proceedings;

6. All correspondence relating to the application; and

7. A copy of the notice which was given as provided by CDC 99.080, accompanying affidavits and list of persons who were sent mailed notice.

D. The record of the proceedings for a hearing on appeal or review by the City Council shall consist of all the above items and all similar items presented during the Council proceedings. (Ord. 1568, 2008)

99.230 EFFECTIVE DATE OF DECISION – APPEAL OR REVIEW

A. Any Planning Director or Planning Commission decision made under the provisions of this chapter shall become effective at 5:00 p.m. on the fourteenth day from the date of mailing the notice of the final decision, unless a local appeal or review is taken pursuant to CDC 99.240. If the fourteenth day falls on any legal holiday or on a Saturday or Sunday, then the effective date and time shall be at 5:00 p.m. on the next business day.

B. City Council decisions are final upon the date of the signature on the decision. The effective date shall be 21 days from the date that the final, signed decision is mailed. If the twenty-first day falls on any legal holiday or on a Saturday or Sunday, then the effective date and time shall be at 5:00 p.m. on the next business day. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1590 § 1, 2009)

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 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 explicitly identified themselves, in writing or in testimony, as representing the association.

3. The association submits a copy of the meeting minutes and vote taken supporting the appeal.

4. The neighborhood association appeal is related to the property within the association's recognized boundaries, or an application outside the association's boundaries that shall have significant impacts upon the association's neighborhood.

5. The neighborhood association may appeal without cost on behalf of an individual or group with standing who is not represented by a recognized association if subsections A, B and C 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. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1597 § 20, 2010)

99.250 APPLICATION FOR APPEAL OR REVIEW

A. The notice of appeal shall contain:

1. A reference to the application sought to be appealed; and

2. A statement explaining how the petitioner qualifies as a party of standing, as provided by CDC 99.140.

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

C. The hearing on the appeal or review shall be de novo; however, all evidence presented to any lower approval authority shall be made part of the record and shall be considered and given equal weight as evidence presented on appeal.

D. The appeal or review application may state grounds for appeal or review. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1622 § 5, 2014; Ord. 1663 § 1, 2017)

99.260 PERSONS ENTITLED TO NOTICE ON APPEAL – TYPE OF NOTICE

Upon appeal, 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; Ord. 1622 § 5, 2014)

99.270 CONTENTS OF PUBLIC NOTICE OF APPEAL HEARING

Notice given to persons entitled to mailed notice under CDC 99.260 shall:

A. Reference the application sought to be appealed;

B. List the date, time, and location of the hearing;

C. State the appellant or petitioner name(s);

D. List any grounds for appeal or review stated in the application for appeal or review, but state that the appeal or review is not limited to the stated grounds for appeal or review and that all relevant issues may be considered;

E. State that the hearing on appeal shall be de novo; however, evidence presented to the lower approval authority shall be considered and given equal weight as evidence presented on appeal;

F. Include the name of government contact and phone number; and

G. State that the application and record are available for inspection at no cost, and copies at a reasonable cost.
(Ord. 1382, 1995; Ord. 1474, 2001; Ord. 1547, 2007; Ord. 1568, 2008; Ord. 1622 § 5, 2014; Ord. 1663 § 2, 2017)

99.280 TYPE OF APPEAL 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 evidence in the appeal procedure.

2. If any party requests a continuance of the appeal 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. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1622 § 5, 2014; Ord. 1663 § 3, 2017)

99.290 ACTION ON APPEAL OR REVIEW – TIME LIMIT AND AUTHORITY TO CHANGE DECISION

A. The approval authority shall act upon the appeal or review within 120 days of the application being deemed complete, unless the applicant consents to an extension of time; and

B. The approval authority may affirm, reverse, or modify the decision which is the subject of the appeal; however, the decision shall be made in accordance with the provisions of CDC 99.110; or

C. The approval authority may remand the matter if it is not satisfied that testimony or other evidence could not have been presented or was not available at the hearing. In deciding to remand the matter, the approval authority shall consider and make findings and conclusions regarding:

1. The prejudice to parties;

2. The convenience or availability of evidence at the time of the initial hearing;

3. The surprise to opposing parties;

4. The date notice was given to other parties as to an attempt to admit; or

5. The competency, relevancy, and materiality of the proposed testimony or other evidence. (Ord. 1474, 2001; Ord. 1568, 2008)

99.300 PARTICIPATION BY MEMBERS OF APPROVAL AUTHORITY IN DECISION AND VOTING

A. The provisions of CDC 99.180 apply and, in addition:

1. A majority of the qualified voting members of the approval authority must vote affirmatively to affirm, affirm with conditions, or reverse or remand the decision. If no majority is in favor of any motion, then the previous decision shall be considered affirmed.

B. Unless a decision be deferred, in the event of a tie, the decision which is the subject of appeal or review shall stand. (Ord. 1474, 2001; Ord. 1568, 2008)

99.320 DENIAL OF APPLICATION – RESUBMITTAL

An application which has been denied and, if appealed, has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission, or the courts, may not be resubmitted for the same or a substantially similar proposal, or for the same or substantially similar action, for a period of at least 12 months from the date the final decision is made denying the application. (Ord. 1568, 2008; Ord. 1590 § 1, 2009)

99.325 EXTENSIONS OF APPROVAL

A. An extension may be granted by the original decision-making body by an additional two years from the effective date of approval pertaining to applications listed in CDC 99.060(A), (B), (C), (D) or (E), as applicable, upon finding that:

1. The applicant has demonstrated that the application is in conformance with applicable CDC provisions and relevant approval criteria enacted since the application was initially approved; and

2. There are no demonstrated material misrepresentations, errors, omissions, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage; or

3. The applicant has modified the approved plans to conform with current approval criteria and remedied any inconsistency with subsection (A)(2) of this section, in conformance with any applicable limits on modifications to approvals established by the CDC.

B. *Repealed by Ord. 1675.*

C. *Repealed by Ord. 1675.*

D. *Repealed by Ord. 1635.*

E. Extension procedures.

1. The application for extension of approval with modifications to the original approval may be submitted only after a pre-application meeting under CDC 99.030(B). If no modifications are made to the original approval, a pre-application conference is not required.

2. The application for extension of approval with modifications to the original approval shall satisfy the neighborhood meeting requirements of CDC 99.038 for those cases that require compliance with that section. If no modifications are made to the original approval, no neighborhood meeting is required.

3. Applications for extensions must be submitted along with the appropriate deposit to the Community Development Department.

4. Notice of the decision shall be issued consistent with CDC 99.080.

5. The decision shall not become effective until resolution of all appeal periods, including an opportunity for City Council call-up pursuant to this chapter. (Ord. 1589 § 1 (Exh. A), 2010; Ord. 1621 § 25, 2014; Ord. 1635 § 43, 2014; Ord. 1675 § 57, 2018)

99.330 REVOCATION OF APPROVALS – FAILURE TO FULFILL CONDITIONS

A. Conditions of approval shall be fulfilled within the time limit set forth in the decision, or by specific provisions in this code or, if no time limit is set forth, within three years unless an extension is granted per CDC 99.325. Failure to fulfill any condition of approval within the time limitations provided will be grounds for revocation of approval after notice and an opportunity to be heard as an administrative action as provided in this section. Alternately, the Planning Director shall pursue compliance through Chapter 106 CDC.

B. Substantial changes, alterations, or amendments to the substance of the conditions of approval shall be processed as a new administrative action per CDC 99.120.

1. Substantial changes in an application made after approval, but without applicant seeking approval under CDC 99.120, shall result in revocation of approval after notice and opportunity to appeal revocation order.

2. Director determination of what does or does not constitute substantial changes, alterations, or amendments is appealable to the City Council by anyone having standing in the original land use decision.

C. The conditional approval may require the owner of the property to sign within a time certain or, if no time is designated, within a reasonable time, a contract with the City for enforcement of the conditions. The Council shall have the authority to execute such contracts on behalf of the City. If a contract is required by a conditional approval, no building permit shall be issued for the use covered by the applications until the executed contract is recorded in the real property records of the County and filed in the County records. Such contracts shall be enforceable against the signing parties, their beneficiaries, successors, and assigns by the City by appropriate action in law or suit in equity for the benefit of public health, safety, and welfare.

D. A performance bond or other type of surety in a form acceptable to the Director, or upon appeal or review by the appropriate approval authority, or a cash deposit from the property owners or contract purchases in such an amount as will assure compliance with the conditions imposed pursuant to this section may be required. Such bond, surety, or deposit shall be posted prior to the issuance of a building permit for the use covered by the application.

E. The hearings authority may, after a hearing conducted pursuant to this chapter, modify or revoke any approval granted pursuant to this chapter for any of the following reasons:

1. A material misrepresentation or mistake of fact made by the applicant in the application or in testimony and evidence submitted, whether such misrepresentation be intentional or unintentional; or

2. A failure to comply with the terms and conditions of approval; or

3. A failure to use the premises in accordance with the terms of the approval; or

4. A material misrepresentation or mistake of fact or policy by City in the written or oral report regarding the matter, whether such misrepresentation be intentional or unintentional.

F. In the event that a revocation hearing is deemed appropriate, per subsection A of this section, the hearing shall be conducted by the decision-making authority that granted the final City approval. The Planning Director or the approval authority with jurisdiction may initiate revocation proceedings. For the Planning Director's decisions made without a public hearing, the Planning Commission shall hold a public hearing on the proposed revocation. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1589 § 1 (Exh. A), 2010)