



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

March 9, 2007

TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Ontario Plan Amendment
DLCD File Number 004-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: March 22, 2007

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Darren Nichols, DLCD Regional Representative
Steve Oulman, Dlcd Transportation Planner
Grant Young, City of Ontario

<paa> ya/

2 Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of Ontario Local file number: 2006-08-20CC
Date of Adoption: 2/20/2007 Date Mailed: 02/21/2007
Date original Notice of Proposed Amendment was mailed to DLCD: 09/20/2006

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Amendment of City Zoning Regulations; primarily procedural requirements, but some changes/additions to substantive Regulations.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".
Substantially the same; some minor changes to proposed amendments by Council.

Plan Map Changed from: NA to: NA
Zone Map Changed from: NA to: NA
Location: City UGA and City Limits Acres Involved: Entire UGA
Specify Density: Previous: NA New: NA
Applicable Statewide Planning Goals: 1, 2 & 9

Was and Exception Adopted? YES NO

DLCD File No.: 004-06 (15619)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (45) days prior to first evidentiary hearing? Yes No
If no, do the statewide planning goals apply? Yes No
If no, did Emergency Circumstances require immediate adoption? Yes No

Affected State or Federal Agencies, Local Governments or Special Districts:

Malheur County

Local Contact: **Grant Young** Phone: **(541) 881-3222** Extension: _____

Address: **444 SW 4th Ave** City: **Ontario, OR**

Zip Code + 4: **97914-** Email Address: **grant.young@malheur.gov**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **maru.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

After recording, return to:
City Recorder
City of Ontario
444 SW 4th Street
Ontario OR 97914

INSTRUMENT NO. 2007-1433
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FEB 26 2007

DEBORAH R. DELONG County Clerk
By *Sherril Childs* Deputy

ORDINANCE NO. 2584-2007

AN ORDINANCE AMENDING THE TEXT OF TITLE 10 OF
THE CITY OF ONTARIO MUNICIPAL CODE

- WHEREAS,** The City of Ontario has implemented the State of Oregon's Statewide Planning Goals through adoption of a Comprehensive Land Use Plan and implemented that Plan through adopted zoning regulations contained in Title 10 of the City's Municipal Code; and
- WHEREAS,** The existing procedural requirements and substantive regulations in Title 10 are somewhat inconsistent with changes in State Law and Court decisions that have occurred over the years since initial adoption, being in some cases more restrictive, and in others, less restrictive; and
- WHEREAS,** The City's vision for development has evolved since initial adoption; and
- WHEREAS,** The City Council has determined that amending the existing code to be consistent with State Law and the change in vision will effectively streamline the permitting process for property owners and developers within the City's Urban Growth Area; and
- WHEREAS,** The Ontario City Council directed Staff to so amend the Code; and
- WHEREAS,** Staff has addressed the Council's Direction by initiating a formal application for the desired amendment; notified DLCD and all other required individuals and agencies; and
- WHEREAS,** Pursuant to the formal application the City has held public hearings on the proposed amendment before the Planning Commission on November 13, 2006, and December 11, 2006; and before the City Council on January 16, 2007;

NOW, THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:

1. Based upon the attached Exhibit "A", and on the record of Land Use Action 2006-08-20CC, Titles 10A, 10B and 10C are amended as follows:
 - A. Amendment. Title 10A, Sections 10A-01 and 10A-03, 10A-05, 10A-27, 10A-29, 10A-31, and Section 10A-57-35 through 10A-57-55, are deleted in their entirety and replaced with the attached Exhibit "B";

- B. Amendment. Title 10B, Sections 10B-01, 10B-02, 10B-03, 10B-04, 10B-05, 10B-10, 10B-52, 10B-55 and 10B-56 are deleted in their entirety and replaced with the attached Exhibit "C"; and,
- C. Amendment. Title 10C, Sections 10C-01, 10C-15, 10C-20, 10C-25 and 10C-30-30 are deleted in their entirety and replaced with the attached Exhibit "D".

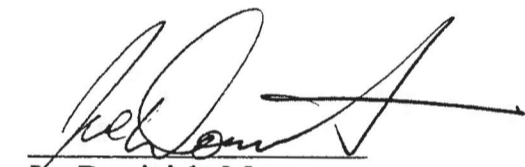
PASSED AND ADOPTED by the Common Council of the City of Ontario this 20th day of February, 2007, by the following vote:

AYES: Gaskill, Allen, Cummings, Dominick, Mills, Mosier, Tuttle

NAYS: None

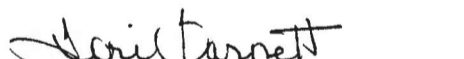
ABSENT: None

APPROVED by the Mayor this 20th day of February, 2007.



Joe Dominick, Mayor

ATTEST:



Tori Barnett, City Recorder

EXHIBIT A

AGENDA REPORT-PUBLIC HEARING
Tuesday, January 16, 2007

TO: Mayor and City Council

THRU: Scott Trainor, City Manager

FROM: Grant Young, Planning and Zoning Administrator

SUBJECT: **ACTION 2006-08-20CC; ORDINANCE #2584-2007:** A proposed **amendment to Titles 10A, 10B, and 10C of the Ontario Municipal Code.** This Ordinance is being considered for adoption in response to a need to update Titles 10A, 10B and 10C of the Ontario Municipal Code; these sections contain substantive zoning regulations and procedural requirements for applications and hearings. The City wishes to update these Sections to be consistent with State Law and to simplify and streamline local land use regulations as much as is possible within the parameters of State Law. If approved and adopted this amendment will result in changes to the Ontario Zoning Ordinance that will be applicable to all land within the City Limits, and to some extent, all land within the City's Urban Growth Area. **ORDINANCE #2584-2007, First Reading**

REPORT DATE: Monday, January 8, 2007

I. SUMMARY & BACKGROUND:

Attached document(s):

- Exhibit "A" Synopsis Memo
- Exhibit "B" Text of proposed amendments
- Exhibit "C" Adopting Ordinance #2584-2007
- Exhibit "D" February 5, 2007, Staff Report and Exhibits

Approximately five years ago City Government implemented new efforts to prepare the City for the wave of growth sweeping west from Idaho. That effort began by hiring quality staff and moved from there to directing management to prepare or update City plans as required by the State in order to maximize funding opportunities through grants, ensure as stable a revenue line as possible, and to provide for orderly growth at a rapid rate. Among the planning efforts the City accomplished were multiple area Traffic Studies, a comprehensive Transportation System Plan, updating the Public Facilities Plan, and the Airport Plan, to name just a few. The City also realized that updating and codifying a badly outdated Comprehensive Land Use Plan and Zoning Regulations were critical to the overall effort to make the City as development friendly as it could be within the parameters of State Land Use Law by intensifying planning work in that area.

Approximately three years ago the City placed funding for codification of the Zoning Regulations in the City Recorder's budget. Due to Staff turnover and bad luck with contractors, the City has been frustrated in accomplishing as much land use updating as desired; however, the Transportation System Plan has been adopted and work is well underway to accomplish a significant expansion of the Urban Growth Boundary. In addition, strategic planning efforts, and an effort to develop a revitalization development plan for the Downtown District and an Urban Renewal District are underway. During the past five years the City has forged an excellent relationship with several State Agencies, among them the Department of Land Conservation and Development, and the Oregon Department of Transportation, obtaining over \$100,000.00 in grant funding from these two agencies alone. As part of these efforts, Planning Staff received direction from the Council and City Manager to get the Zoning regulations updated; what is before the Council tonight is the end product of review and proposed changes to the *procedural sections*, with a few minor suggestions for changes to the *substantive portions* of the zoning regulations. Major revisions to the substantive portions should come before July 1, 2007. Exhibit A is a document giving a brief explanation of the proposed changes; Exhibit B is the proposed new code sections; and, Exhibit C is the adopting ordinance.

II. PREVIOUS COUNCIL ACTION:

None. The Planning Commission heard this matter at their regular November and December meetings and has forwarded a recommendation for approval as amended to the Council.

III. APPLICABLE ORDINANCE & COMPREHENSIVE PLAN CRITERIA AND STANDARDS:

The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

A. Zoning Ordinance requirements for Code text amendments:

1. CHAPTER 10B-15 LEGISLATIVE AMENDMENT PROCEDURES

10B-15-05 LEGISLATIVE AMENDMENT, INITIATION OF ACTION.

Amendments to Title 10A, 10B, 10C or other Titles in the development code series, or to the comprehensive plan may be initiated by the Council or Commission by motion, or by individuals by application as provided for in this Title. Amendment actions shall first be referred to the Planning Commission for the public hearing and recommendation. The Department of Land Conservation and Development shall be notified of the pending action at least 45 days before the initial evidentiary hearing date, unless a shorter time is authorized by Oregon administrative regulations for the type of action being taken.

2. 10B-15-20 COMMISSION HEARING, DECISION. The Commission shall hold a public hearing on the action and shall recommend approval, disapproval, or

modification of the proposed amendment and shall make findings as appropriate to support the recommendation. Written findings and recommendations shall be forwarded to the Council by the Planning Director.

Upon receipt of the Commission's recommendation, the Council shall set a date for a public hearing on the recommendation. If the hearing is to be the final hearing on the action, the date must be set late enough to allow the Department of Land Conservation and Development notice period to expire. The Council may approve, reverse or modify the amendment and may adopt the Commission's findings, create new findings or add to or delete from the Commission's findings. The Council may remand the action to the Commission for further consideration. A copy of the final decision shall be transmitted to the Department of Land Conservation and Development.

Findings: These requirements are procedural directions and notice requirements; this matter has been properly noticed and heard by the Planning Commission as required and is now before the City Council for a decision.

Conclusion: Notice has been properly given, hearings held and procedural requirements met; the City Council may make a decision.

B. Comprehensive Plan Considerations:

Findings: Ordinance #2584-2007 is attached to this report as Exhibit C; please note that this adopting ordinance was originally noticed as #2584-2006, but due to time spent in the process has been changed to reflect the year in which actual adoption will take place. Exhibit B is comprised of the individual sections of the zoning code, with each section containing the text of the proposed changes as "New Code". The sections that have been modified are highlighted and coded as noted in Exhibit A, the synopsis memos. The bulk of the changes are to processes that govern land use applications including what is in the applications, how notice is provided and to whom, who hears the applications, how hearings are conducted, what happens in an appeal, etc. These matters fall under the umbrellas of Statewide Planning Goal 1, Public Involvement, and Goal 2, Planning Process. There are some minor changes to provisions for uses in the City's Commercial Zones, and to Landscaping requirements. These matters fall loosely under Statewide Planning Goal 9, Economic Opportunity.

The City's Comprehensive Plan contains policies under each of these Goals, to implement the Goals and therefore be consistent with State Law; these Comprehensive Plan Policies are in turn implemented by the local zoning regulations, which are the subject of this amendment. Any changes to zoning regulations must be consistent with State Law, and, if so, are consistent with the Goals, and the policies in the comprehensive plan. In Staff's opinion these proposed amendments are consistent with State Law and therefore are consistent with the City's Comprehensive Plan Policies.

Conclusion: The amendments proposed are consistent with the applicable Statewide Planning Goals and the City of Ontario Comprehensive Land Use Plan.

IV. STAFF RECOMMENDATION:

The Council must approve as presented; approve with changes, or deny, this proposed amendment to the Ontario Municipal Code. Staff recommends approval for the reasons set forth above.

V. PROPOSED MOTIONS:

1. Approval of Request:

I move that the City Council approve the proposed amendments to Title 10 of the Ontario Municipal Code as set forth in Land Use Action #2006-08-20CC, based on the information, findings of fact and conclusions in Sections I through IV above.

2. Adoption:

I move that the City Council adopt **ORDINANCE #2584-2007; AN ORDINANCE AMENDING THE TEXT OF TITLE 10 OF THE CITY OF ONTARIO MUNICIPAL CODE**, on first reading by Title only.

10A-01-01 SHORT TITLE. This Title of the Ontario City Code shall be cited as the "Zoning Ordinance of the City of Ontario." This Title shall also be known as "Title 10 of the Ontario Municipal Code of the City of Ontario, Oregon."

10A-01-03 PURPOSE AND SCOPE. In accordance with the provisions of Oregon Revised Statutes Chapters 197 and 227, this ordinance codified as Title 10 of the City Code, sets forth certain standards and procedures governing the development and use of land, and the interrelated functional and natural systems and activities relating to the use of land in the City. Furthermore, the purpose of this ordinance shall be to promote the general health, safety, and welfare of the public by providing for:

1. Opportunities for citizens to be involved in all phases of the community planning process;
2. Guide and regulate the orderly growth, development and redevelopment of Ontario in accordance with a well-considered plan and planning process consisting of long-term objectives, policy statements and standards deemed beneficial to the to the interest and welfare of the people;
3. Protect the established character and the social and economic well-being of both public and private property;
4. Promote, in the public interest, the utilization of land for the purpose for which it is most desirable and best adapted as part of an overall land use plan;
5. Regulate and limit the height, bulk and location of buildings so as to conserve the attributes of all land and for other objectives including the preservation of solar access, light, air and freedom from adverse congestion;
6. Establish, regulate and limit the building or setback lines on or along public rights-of-way in the city;
7. Regulate and limit the density of population and intensity of uses of lot areas so that infrastructure can be designed and constructed to approximate the existing and future demands on it;
8. Conserve open space, and protect natural and scenic resources;
9. Maintain and improve the quality of the air, water, and land resources of the community;
10. Protect life and property from natural disasters and hazards;
11. Satisfy the recreational needs of the community's citizens and its visitors;

12. Diversify and improve the economy of the community;
13. Satisfy the housing needs of the citizens of the community;
14. Plan and develop a safe, convenient, and economic transportation system;
15. Conserve energy, and develop renewable energy resources; and
16. Promote an orderly and efficient transition from rural to urban land-use in areas surrounding the community.

(modified; MR, SC) 10-01-05 APPLICABILITY, STREETS AND HIGHWAYS. Construction or improvement of streets, highways, bridges, bikeways or walkways and the acquisition of right-of-way for streets, highways, alleys, bikeways, or walkways is regulated by Title 10A, 10B and 10C of this Ordinance. Right-of-way acquisition for approved projects shall be exempt from minor partitioning, yard space and minimum lot area requirements of this Title.

10-01-10 APPLICABILITY, UTILITIES. Water mains, sanitary sewer mains and small pumping plants, storm drainage facilities, power distribution lines and small transformers, telephone lines, gas lines and small regulators and cable television lines are allowed principal uses in all zones by virtue of their inclusion in the City's Comprehensive Plan, acceptance of a subdivision or partition plat or other official acceptance of right-of-way or easements, or the granting of a franchise by the City Council. Larger facilities necessary for the functioning of the utilities are subject to the provisions of individual zones, possibly as conditional uses, except that any larger utility facilities noted in the Comprehensive Plan are allowed as principal uses in any zone.

10A-01-15 APPLICABILITY, TERRITORIAL APPLICATION. All buildings and structures erected hereafter, all uses of land or buildings occurring hereafter, and all enlargements of, additions to, changes in and relocation of existing uses occurring hereafter shall be subject to all regulations of this Title which are applicable to the zones in which such buildings, structures, uses or land are located. Existing buildings, structures or uses which do not comply with the regulation of this Title shall be allowed to continue subject to provisions of Sections 10A-05-30 through 50 relating to non-conformities, Sections 10A-57-145 through 148, relating to nonconforming signs, or other sections relating to specific non-conformities.

10A-01-20 APPLICABILITY, GENERAL PROHIBITION. No building or structure; no use of any building, structure or land; and no lot of record or development site, now or hereafter existing, shall hereafter be established, altered, moved, divided or maintained, in any manner, except as authorized by the provisions of this Title.

10A-01-25 APPLICABILITY, PRIVATE AGREEMENTS. This Title is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship; provided, however, that where the regulation of this Title are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements or legal relationships, the regulations of this Title shall govern.

10A-01-30 APPLICABILITY, EXISTING VARIANCES AND CONDITIONAL USE PERMITS. Any variance or conditional use permit lawfully issued prior to the effective date of this Title, or any amendment thereof, which could be lawfully issued pursuant to the provisions in effect after such effective date shall be deemed to be and continued valid after such effective date. Any structure or use lawfully authorized by any such variance, conditional use permit or other permit which could not be issued after such effective date shall be allowed to continue subject to the provisions of Sections of this Title dealing with lawfully existing non-conformities.

10A-01-35 APPLICABILITY, EXISTING USES OF RIGHT TO CONDITIONAL USES. Any existing structure or use established as of right under any previous regulations and which is listed as a conditional use under this Title shall be a lawful conditional use upon adoption of this Title.

10A-01-40 SEVERABILITY, PROVISIONS DECLARED INVALID The several provisions of this Title shall be separable in accordance with the following rules:

1. If any court of competent jurisdiction shall find any provision of this Title to be invalid, such judgment shall not effect any other provisions of this Title.
2. If any court of competent jurisdiction shall find invalid the application of any provision of this Title to a particular property, building or structure, such judgment shall not effect the application of said provision to any other property, building or structure.

10A-01-45 ENFORCEMENT. The Planning Official and the Ontario City Chief of Police have the power and duty to enforce the provisions of this Title; the City Manager may appoint additional employees who shall have the power and duty to enforce the provisions of this Title.

10A-01-50 INSPECTION AND RIGHT OF ENTRY. Whenever they shall have cause to suspect a violation of any provision of this Title, or when necessary to investigate an application for or revocation of any zoning approval under any of the procedures described in this Title, officials responsible for enforcement or administration of this Title or the duly authorized representative, may enter into any site or into any structure for the purpose of investigation, provided they do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant unless a warrant authorizing entry and inspection for a zoning violation is first obtained from the Court. A warrant shall not be issued unless good and sufficient grounds based on reliable evidence is shown by the officials responsible for enforcement and administration of this Title. A secured building means a building having doors and windows capable of locking, fully enclosed, and occupied. No owner or occupant or agent thereof, shall, after reasonable notice and opportunity to comply, refuse to permit such entry.

10A-01-55 ENFORCEMENT OFFICIAL, DUTIES. It shall be the duty of the designated City official to enforce the provisions of this Title pertaining to land use and the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment use, height, area, and maintenance of buildings or structures. The enactment of this Title shall not invalidate any prior, existing, or future prosecutions for violation of the zoning regulations committed under previous applicable city ordinance then in effect.

10A-01-60 LEGAL PROCEEDINGS BY CITY ATTORNEY. The City Attorney, upon request of the City Manager, shall institute any necessary legal proceedings to enforce the provisions of this ordinance.

10A-01-65 VIOLATION PROCEDURE, PENALTY.

1. A uniform complaint, or citation to appear, may be issued to the owner or occupier of property being used in violation of this Title, requiring said owner or occupier to appear in court regarding a violation of zoning ordinance;
2. A trial shall be heard before the Court without a jury. The standard of proof required shall be by a preponderance of the evidence;
3. A person convicted of violating a provision of this Title shall, upon conviction, be punished by a fine of not more than \$500 for each day that the violation continues;
4. A violation of this Title shall be considered a separate offense for each day the violation continues;
5. In the event the owner or occupier fails to pay any fine imposed upon conviction of a violation, the court may issue a show cause order to the individual so charged and require his presence in court to set forth the reasons for said failure to pay. If good and sufficient reasons do not exist, the Court may request the City Council to adopt an ordinance making the amount a lien against the property.

10A-01-70 LEGAL PROCEEDINGS AS ALTERNATIVE REMEDY. In case a building or other structure is, or is proposed to become, a located, constructed, maintained, repaired, altered, or used, or land is or proposed to be, used in violation of this Title, the building or land thus in violation shall constitute a nuisance, and the City may, as an alternative to other remedies that are legally available for enforcing this Title, institute an injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use.

In the event the City establishes a violation of this Title in such action, the City shall be entitled to recover its attorney fees and other expenses incurred in addition to costs and disbursements allowed by statute both at trial and appeal.

10A-01-75 REMEDIES, CUMULATIVE. It is the intent of this ordinance that the remedies provided for be cumulative and not mutually exclusive.

10A-01-80 VIOLATIONS, UTILITY SERVICE DENIED. The Director of Public Works or any official under his control, and the Planning Official, may choose to not issue a permit, service order, or provide utility service to any use or structure found by the Enforcement Official to be in violation of this Title; existing service may be discontinued upon due process. Agreements may be negotiated to supply service pending correction of deficiencies within a reasonable time.

10A-01-85 ZONING CERTIFICATE. A certificate of occupancy issued by the Building Inspector shall imply a certificate of zoning compliance. An application for a building permit shall imply an application for a certificate of zoning compliance.

10A-01-90 CERTIFICATE OF OCCUPANCY. A Certificate of Occupancy (C of O) is required for any new or redeveloped or remodeled structure that is intended to be utilized as habitable space, commercial space, or industrial space. No such structure may be utilized until a C of O is obtained. A C of O must be signed by the Public Works Official, Planning Official and Building Official to be issued. It is a violation of this section for a property owner to allow use or occupation of that space noted above without a C of O.

10A-01-95 INTERPRETATION, PROVISIONS ARE MINIMUM REQUIREMENTS, CONFLICT. In their interpretation and application, the provisions of this Title shall be the minimum requirements for the promotion of the public health, safety and general welfare, as set forth in the provisions hereof establishing the intent and purpose of this Title in general and its various chapters in particular. Wherever the provisions of this Title require a greater width or size of yards, other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or administrative regulation or local ordinance or regulation, the provisions of this Title shall govern. Wherever the provisions of any other statute, administrative regulation, local ordinance or regulation require a greater width or size of yards or other open spaces, require a lower height of building or a less number of stories, or require a greater percentage of lot left unoccupied, or impose other higher standards than are required by this Title, the provisions of such statute or administrative regulation or local ordinance or regulation shall govern. If another chapter or section of the City Code covers the same subject matter as a chapter or section of this Title, then the provision with the latest enactment date shall govern.

10A-01-82 CONFORMITY, COMPREHENSIVE PLAN AND POLICY PLAN AND POLICY STATEMENTS. The provision of this Title are developed with the intention that they be and they are, as nearly as feasible, consistent with the adopted Comprehensive Plan and policy statements of the City of Ontario, and implement the Policies contained therein. Said plan and statements and amendments thereto, shall be a guide to the applicable city officials in determining the appropriateness of any proposed amendments of this Title. In any case in which a question is raised of the compatibility of a proposed amendment to this Title with the Comprehensive Plan and policy statements, the planning official shall prepare advisory written findings in support of a recommendation of compatibility or incompatibility.

10A-01-84 USES NOT LISTED. It is recognized that in the development of a comprehensive zoning and land development ordinance:

1. Not all uses of land can be listed, nor can all future uses be anticipated; or
2. A "use" may have been inadvertently omitted from the list of those specified as permitted or conditional in each of the various zoning districts designated; or

3. Ambiguity may arise concerning the appropriate classification of a particular use within the meaning and intent of this ordinance.

Therefore, the phrase "plus such other uses deemed to be similar, and not more obnoxious or detrimental to the public health, safety and welfare" shall be unmentioned, but included in the respective lists of "Permitted Uses" and "Conditional Uses" in each district. In the regulations for some zones, specific excluded uses are enumerated for clarification of intent, but such lists of excluded uses are not to be interpreted as including all excluded uses. Wherever a use is listed specifically in one zone, and not in another, the use is not allowed where not listed. Should a conflict over the classification of a proposed use arise, an interpretation by the City Council shall be requested. Newly classified uses shall be subject to all other substantive requirements of this ordinance.

10A-01-86 GENERAL INTERPRETATION, WORD USAGE. In the interpretation of this Title, the provisions of this subsection shall be observed and applied, except when the context clearly requires otherwise.

1. Words used or defined in on tense or form shall include other tenses and derivative forms.
2. Words in the singular number shall include the plural number, and words in the plural number shall include the singular.
3. The masculine gender shall include the feminine and the feminine gender shall include the masculine.
4. The word "shall" is mandatory.
5. The word "may" is permissive.
6. The word "person" includes individuals, firms, corporations, associations and other entities.
7. The word "county" means the County of Malheur, Oregon.
8. In case of any difference in meaning or implication between the text of this Title and any caption or illustration, the text shall control.

CHAPTER 10A-03 DEFINITIONS

10A-03-01 DEFINITIONS. When used in this Title, the following terms shall have meaning herein ascribed to them except when the context clearly requires otherwise.

10A-03-02 ABUTTING. Contiguous or adjoining. It shall include the terms adjacent, adjoining and contiguous.

10A-03-03 ACCESS EASEMENT. An easement recorded for the purpose of providing vehicle, bicycle, and/or pedestrian access from a public street to a parcel across intervening property under separate ownership from the parcel being provided access.

10A-03-04 ACCESSIBLE. Approachable and useable by people with disabilities. Complies with the Americans With Disabilities Act.

10A-03-05 ACCESS MANAGEMENT Measures regulating access to arterials, collectors, local streets, and highways from public roads, private roads, and private driveways for the purpose of improving efficiency, safety, and/or operation of the roadway. These measures may include but are not limited to restrictions on the type and amount of access to roadways and the use of physical controls such as signals and channelization.

10A-03-06 ACCESSWAY. A walkway that provides pedestrian and/or bicycle passage either between streets or from a street to a building or other destination such as a school park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner which provides convenient access for pedestrians.

10A-03-07 ACCESSORY USE OR STRUCTURE. A structure or use which:

1. Is subordinate to and serves a principal building or principal structure or principal use served;
2. Is subordinate in area, extent and purpose to the principal structure or principal use served;
3. Contributes to the comfort, convenience or necessity of the occupants, business or industry in the principal structure or principal use served;
4. Is located on the same development site as the principal structure or principal use served, except as otherwise expressly authorized by the provisions of this Title.
5. Is a structure such as a garage, storage shed, sign, dog run, antenna, statue, fountain, mail boxes or similar feature, which is not attached to the principal structure such as driveways, sidewalks, patios and similar features at ground level are not considered accessory structures.

10A-03-08 ADJACENT. Abutting or located directly across a street right-of-way.

10A-03-09 ADMINISTRATIVE. A discretionary action or permit decision made without a public hearing, but requiring public notification and an opportunity for appeal.

10A-03-10 ADT – AVERAGE DAILY TRAFFIC. This term denotes the total traffic volume passing a point or segment of roadway in both directions for over an average weekday 24-hour period.

10A-03-11 ADULT BOOK STORE. Any premises from which minors are excluded because of age in which the dissemination, sale, or rental of books, magazines, newspapers, movie films, video tapes, devices, slides, or other drawn, photographic or written reproduction is conducted as some other business activity, but which constitutes the primary or a major attraction to the premises. Such a use is to be regarded as a principal use for the business of this Title.

10A-03-12 ADULT MOTION PICTURE THEATER. Any premises in which motion pictures, slides, videotapes, or similar drawn or photographic reproductions are shown to an audience of one or more persons; and wherein fees of any kind are charged; and wherein minors are excluded because of an age on a regular basis, whether or not they are accompanied by an adult. Such a use is to be regarded as a principal use for the purpose of this Title.

10A-03-13 ADULT PERFORMANCE BUSINESS. Any premises from which minors are excluded and in which entertainment consists of the actions or performances of actors, employees or other persons portraying conduct described in the O.R.S. 167.060, and in which such entertainment is the principal use of such premises or an adjunct to some other business activity but which constitutes the primary or major attraction to the premises, and wherein fees of any kind are charged, and where such use is regarded as the principal use for the purposes of regulations contained in this Title.

10A-03-14 ADVERSE IMPACT. Negative affect of a development that can be measured (e.g., noise, air, pollution, vibration, traffic, dust, etc.).

10A-03-15 AIRPORT. An area of land set aside for the landing and taking off of an aircraft, and utilized or to be utilized in the interest of the public for such purposes, and commonly known as the Ontario Municipal Airport and including taxiways, tie down areas, terminals and supporting uses.

10A-03-16 AIRPORT APPROACH SAFETY ZONE. The land that underlies the approach surface, excluding the RAZ.

10A-03-17 AIRPORT ELEVATION. The highest point of an airport's usable landing area measured in feet above mean sea level. This is 2189 feet above mean sea level for the Ontario Municipal Airport.

10A-03-18 AIRPORT HAZARD. Any structure, tree, or use of land which exceeds height limits established by the Airport Imaginary Surfaces.

10A-03-19 AIRPORT IMAGINERY SURFACES. Those imaginary areas in space which are defined by the Approach Surface, Transitional Surface, Horizontal Surface, and Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.

10A-03-20 AIRPORT OPERATOR. The authority designated by the City of Ontario whose responsibility it is to maintain and operate the Ontario Municipal Airport.

10A-03-21 AIRPORT RUNWAY. See Runway.

10A-03-22 ALLEY. A way or thoroughfare, dedicated to public use, but not more than 20 feet wide which is platted or dedicated for the purpose of or in use provides a secondary access to property otherwise served by a street.

10A-03-23 AMUSEMENT ARCADE. A structure or portion of a structure within which are maintained, for amusement, entertainment, recreation or patronage of the public, six or more mechanical, electrical or electronic amusement machines or devices, the operation of which is governed or controlled by the deposit of a coin or token.

10A-03-24 APARTMENT. See definition of "dwelling, multi-family."

10A-03-25 APARTMENT HOTEL. A hotel not primarily for the use of transients.

10A-03-26 APPROACH SURFACE. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Primary Surface. The inner edge of the approach surface is the same width as the Primary Surface and extends to a width of: 1,250 feet for utility runway having only visual approaches; 1,500 feet for a runway other than a utility runway having only visual approaches; 2,000 feet for a utility runway having a non-precision instrument approach; 3,500 feet for a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile; 4,000 feet for a non-precision instrument runway having visibility minimums as low as three-fourths statute mile; and 16,000 feet for precision instrument runways. The Approach Surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward to each foot upward (20:1) for all utility and visual runways; 10,000 feet at a slope of 34 feet outward for each foot upward (34:10) for all non-precision instrument runways other than utility; and for all precision instrument runways extends for a horizontal distance of 10,000 feet at a slope of 50 feet outward for each foot upward (50:1); thence slopes upward 40 feet outward for each foot upward (40:1) an additional distance of 40,000 feet.

10A-03-27 AS GRADED. The surface conditions extant on completion of grading.

10A-03-28 AUTOMOBILE REPAIR, MAJOR. General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, such as collision service, body repair and frame straightening; painting and upholstery steam cleaning; undercoating; machining of parts and tire recapping.

10A-03-29 AUTOMOBILE REPAIR, MINOR. The replacement of minor assemblies or parts and tune-up of automobiles, or trucks of less than fifteen thousand pounds gross license weight, but not including any operation included in "major automobile repair."

10A-03-30 AUTOMOBILE SERVICE ESTABLISHMENT. A store, shop or service facility engaged in the sale, rental, storage, towing, service or major automobile repair, as defined herein,

of: vehicles, including automobiles, trucks, farm machinery, buses, trailers recreational vehicles, boats and motorcycles; vehicle parts and accessories, mobile home, modular buildings.

10A-03-31 AUTOMOBILE WRECKING. The dismantling or disassembling of motor vehicles, farm machinery or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or machinery and their parts.

10A-03-32 AUTOMOTIVE VEHICLE DISMANTLING. The removal of parts of vehicles or machinery for sale when carried on entirely within a building and with no outside storage either temporarily or extended.

10A-03-33 BALCONY. A platform enclosed by a parapet or a railing, projecting from the wall of a building above grade and open on at least two sides.

10A-03-34 BASEMENT. A portion of a building located partially underground, but having more than half of its clear floor-to-ceiling height above the grade of the adjoining ground.

10A-03-35 BEDROCK. In place solid rock.

10A-03-36 BENCH A relatively level step excavated into earth material on which fill is to be placed.

10A-03-37 BICYCLE. A vehicle having two tandem wheels, a minimum of 14" (35 cm) in diameter, propelled solely by human power, upon which any person or persons may ride. A three-wheeled adult tricycle is also considered a bicycle.

10A-03-38 BICYCLE FACILITY. Any facility provided for the benefit of bicycle travel, including bikeways and parking facilities as well as all other roadways not specifically designated for bicycle use.

10C-03-39 BICYCLE LANE. A portion of a roadway which has been designated by striping and pavement markings for the preferential or exclusive use of bicyclists.

10A-03-40 BIKEWAY. A bikeway is created when a road has the appropriate design treatment for bicyclists, based on motor vehicle traffic volumes and speeds. The following facilities are considered bikeways: shared roadway, shoulder bikeway, bike lane or bicycle boulevard. Another type of bikeway facility is separated from the roadway and is called a multi-use path.

10A-03-41 BLOCK. An area of land whose boundaries are defined by public or private streets, excluding alleys.

10A-03-42 BLOCK LENGTH. The distance between intersections with other public or private roads as measured along the near-side right-of-way line.

10A-03-43 BLOCK PERIMETER. The perimeter of a block as measured along the near-side right-of-way lines of public streets or accessway easements, but exclusive of driveways.

10A-03-44 BORROW. Earth material acquired from an off-site location for use in grading on a site.

10A-03-45 BUILDING. Any structure having a roof or partial roof supported by columns, posts, or walls for the enclosure of persons, animals, equipment or chattels of any kind. A residential building, within the meaning of this Title, includes a building enclosed by a continuous wall, regardless of the existence of un-pierced party walls within such continuous walls or the existence of platted lot lines through the area occupied by such building. A commercial or industrial building may, within the meaning of this Title, consist of separate buildings where party walls or ownership lines exist in such a manner as to indicate intent that they be separate buildings. A tent or an air supported structure is a building for the purpose of this Title.

10A-03-46 BUILDING LINE. A line on a plat or map or site plan indicating the limit beyond which buildings or other structures may not be erected.

10A-03-47 BUILDING SITE ENVELOPE. See "Construction Site Envelope."

10A-03-48 BUSINESS ESTABLISHMENT. A place of business carrying on operations the ownership of management of which are separate and distinct from any other business located on the same development site. The direct and immediate access to each business establishment is separate and distinct from the direct and immediate access to any other business establishment. Several business establishments may be located under one roof or have a common general entrance and still be separate and distinct business establishments.

10A-03-49 BUSINESS GOODS AND SERVICES ESTABLISHMENT. A shop, store or office engaged in the sale of specialized commodities and goods to other businesses, industries or institutions, or one providing specialized services to such business, industries and institutions, including but not limited to:

- Architect, engineer;
- Building supplies, indoor sales;
- Business or commercial sales;
- Catering establishments;
- Contractor's offices without accessory storage;
- Credit bureaus;
- Data processing;
- Employment agencies;
- Hospital equipment and supplies;
- Janitor service and supplies;
- Job printing;
- Manufacturer's agents;
- Medical and dental laboratories;
- Motion picture production;
- Office machine sales and service;
- Radio and television studios;
- Sign painting;
- Technical schools.

10A-03-50 BUSINESS OFFICE. An office which provides as its primary and major function non-retail services such as insurance, real estate, finance, travel and the like.

10A-03-51 CAPACITY. The maximum rate of flow at which persons or vehicles can be reasonably expected to traverse a point or uniform segment of a lane or roadway during a specified time period under prevailing roadway, traffic, and control conditions, usually expressed as vehicles per hour or persons per hour.

10A-03-52 CARPORT. A permanent roofed structure with not more than two enclosed sides used, or intended to be used for vehicle, boat or major equipment storage. When attached to the principal structure, it is part of the principal structure. When separated from the principal structure, it is an accessory structure.

10A-03-53 CELLAR. A portion of a building located partially or completely underground and having more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground. Such space is not used as living space.

10A-03-54 CENTERLINE RADIUS. The radius of a centerline of a street right-of-way.

10A-03-55 CITY ROAD OR STREET. A road opened to and maintained for public travel by the City of Ontario.

10A-03-56 CLINIC, MEDICAL. A medical clinic is a building or portion of a building containing the offices and associated facilities of one or more practitioners providing medical, dental, psychiatric, osteopathic, chiropractic, physical therapy or similar services for outpatients only, with or without shared or common spaces and equipment. A pharmacy or drug dispensary available to persons other than patients being treated therein are not a permitted part of a medical clinic for purposes of this Title.

10A-03-57 CLUB. A voluntary association of persons organized for fraternal, cultural, recreational, civic, charitable or similar purpose, but not including an organization engaged primarily in a service or activity customarily conducted as a business.

10A-03-58 CLUBHOUSE. A premises occupied by a club.

10A-03-59 COMMERCIAL ACCESS. An on-site road providing access to properties zoned for business, commercial, manufacturing, or industrial uses.

10A-03-60 COMPACTION. The densification of a fill by mechanical means.

10A-03-61 CONDITIONAL USE. A use which requires a Conditional Use Permit (CUP).

10A-03-62 CONGREGATE HOUSING FACILITY. A structure which offers an independent living environment for elderly, disabled or handicapped persons who may be functionally impaired, but in good health (not acutely ill). Congregate housing facilities are characterized by having independent living quarters, sharing common walls and/or floors, and/or ceilings, and

providing central dining facilities where optional meals are provided on a daily basis. Such a facility may also provide support services (located within the same structure), such as scheduled medical consultations, barber shops and hair salons. Congregate housing facilities shall meet the off-street parking requirements for multi-family dwellings (except congregate housing facilities in the C-3, Central Commercial zone shall not be required to establish off-street parking facilities on premises). The space limits of RM-10 zone shall govern when establishing a proposed congregate housing facility.

10A-03-63 CONICAL SURFACE. Extends 20 feet outward for each one foot upward (20:1) for 4,000 feet beginning at the edge of the horizontal surface (5,000 feet from the center of each end of the Primary Surface of each visual and utility runway or 10,000 feet for all non-precision instrument runways other than utility at 150 feet above and airport elevation) and upward extending to a height of 350 feet above the airport elevation.

10A-03-64 CONSTRUCTION SITE ENVELOPE. A boundary on a site plan designated by the applicant as the limit within which a building or other feature of a planned development or other site plan will be placed. This device is intended to allow minor adjustments in building siting without submitting a revised plan for approval.

10A-03-65 CONSUMER SERVICE ESTABLISHMENT. A store, shop or office providing personal, financial, professional, technical or repair services, assistance or advice to individual customers, including but not limited to:

- Accountants;
- Answering services;
- Appliance repair and rental;
- Architects;
- Arts and crafts studios;
- Attorneys;
- Banks, savings and loans, and credit unions;
- Barber or beauty shops;
- Broker, securities;
- Dressmakers or tailors;
- Duplicating shop;
- Insurance agencies;
- Laundry and dry cleaning pick-up station.
- Loan offices;
- Locksmiths;
- Management consultants;
- Medical, dental or other health professional offices or clinic for people;
- Musical instrument repair shop;
- Photographer's studio;
- Print shops employing not more than three persons;
- Real estate offices, sales and management;
- Rental, household and small equipment;
- Restaurants without beer or liquor license;
- Self service automatic laundry or dry cleaning establishment with fewer than fifteen dry

cleaning machines and fewer than fifty laundry machines;
Shoe repair;
Taxidermist;
Television, electronics, computer, small appliance repair;
Travel agencies;
Upholstery shop, household furniture;
Watch repair.

10A-03-66 CORNER RADIUS. The radius of a street corner, as measured around the curb or edge of pavement.

10A-03-67 CROSSWALK. Portion of a roadway designated for pedestrian crossing, marked or unmarked. Unmarked crosswalks are the natural extension of the shoulder, curb line or sidewalk.

10A-03-68 DAY CARE CENTER. A day care facility for 13 or more children in a family home or for six or more children if not located in a family home. Such a facility shall not be considered a residential use. Day care for six or more elderly persons shall be considered a day care center.

10A-03-69 DAY CARE FACILITY. Any facility that provides day care to children including a day nursery, day care center, nursery school group, family day care provider or similar unit operating under any name; but not including pre-school attended for four hours or less per day, cultural or athletic facilities.

10A-03-70 DAY CARE PROVIDER. A day care facility where day care is regularly provided in the home of the provider for 12 or fewer children including the children of the provider. Such a facility shall be considered a single-family residential use. The day care of not more than five elderly persons shall be considered family day care.

10A-03-71 DEVELOPMENT. All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, grading, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, the construction of a building or other structure or the establishment of a land use; making a material change in the use or appearance of a structure or land; dividing land into two or more parcels, including partitions and subdivisions as provided in ORS 92.010 to ORS 92.285; creating or terminating a right of access; mining, dredging, drilling, grading, paving, excavation or drilling, but does not include natural geologic forms or landscapes;.

10A-30-72 DEVELOPMENT SITE. A Parcel of ground declared on the application for a building permit or certificate of occupancy to be the site for a principal building, or group of buildings and accessory buildings, together with such open spaces, street frontage and setbacks as are required by this Title. A development site shall consist of one or more platted lots or tax lots which together create a site which meets the requirements of this Title for the zone, and for the use provided.

10A-03-73 DRIVEWAY. Areas that provide vehicular access to a site, except for public and private streets. A driveway begins at the property line and extends into the site. Driveways do not include parking, maneuvering, or circulation areas in parking space areas.

10A-03-74 DWELLING. Any structure or portion thereof which is designed or used for residential purposes; provided, however, that the following are not dwellings:

1. Transient accommodations;
2. Institutional care facilities such as hospitals, hospices, rest homes and homes for the aged.

10A-03-75 DWELLING, ATTACHED. A row of two or more adjoining dwelling units, each of which is separated from the others by one or more un-pierced walls extending from the ground or roof. Such dwellings are often known as town-houses.

10A-03-76 DWELLING, DUPLEX. A residential building of any configuration containing two dwelling units or two single-family dwellings attached.

10A-03-77 DWELLING, MULTI-FAMILY. A dwelling designed for or occupied by more than two (2) families living independently of each other. Such a dwelling is and characterized by having living units which share common walls and/ or floors and/or ceilings.

10A-03-78 DWELLING, SINGLE-FAMILY, DETACHED. A residential building designed for and occupied by not more than one family and surrounded by open space or yards and having no roof, wall or floor in common with any other dwelling unit.

10A-03-79 DWELLING UNIT. Any room or group of rooms located in a residential building forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, eating and sanitation of one family, not including motel or hotel units. The installation of an additional gas, electric or water meter or separate sewer service is evidence of establishment of an additional dwelling unit.

10A-03-80 EARTH MATERIAL. Any rock, natural soil or fill or any combination thereof.

10A-03-81 EASEMENT. A right of usage of real property granted by an owner to the public or to specific persons, firms, and corporations.

10A-03-82 ENLARGEMENT. An addition to the floor area of an existing building, an increase in the size of any other existing structure, or an increase in that portion of a tract of land occupied by an existing use.

10A-03-83 EROSION. The wearing away of the ground surfaces as a result of movement of wind, water or ice.

10A-03-84 EXCAVATION. The mechanical removal of earth material.

10A-03-85 EXTENSION. An increase in the amount of existing floor area used for an existing use within an existing building.

10A-03-86 EXTERIOR WALL. Any wall which defines the exterior boundaries of a building or its courts, or of a structure.

10A-03-87 FAMILY. One or more persons related by blood, marriage, common law marriage, adoption, guardianship, or not more than five persons not so related or up to five unrelated persons living with a family. A family, as defined in the preceding sentence, may include domestic servants, gratuitous guests, boarders, roomers or lodgers, but shall not exceed ten persons when all are not related by blood, marriage, adoption or guardianship.

10A-03-88 FENCE. A structure constructed of materials such as masonry, ornamental iron, woven wire (chain link), wood pickets, solid wood, or any other material forming a physical barrier which is so constructed as to be impenetrable to persons and animals, or to mark a boundary.

10A-03-89 FENCE, SIGHT OBSCURING. A fence or evergreen planting, seventy percent or more opaque, arranged in such a way as to obstruct vision.

10A-03-90 FILL. A deposit of earth material placed by artificial means.

10A-03-91 FLAG LOT. A lot or parcel which has access to a road, street, or easement, by means of a narrow strip of lot or easement.

10A-03-92 FLOOD. A general and temporary condition of partial or complete inundation of normally dry areas from:

1. The overflow of inland or tidal waters;
2. The unusual and rapid accumulation or runoff of surface waters from any source.

10A-03-94 FLOOD, BASE. The flood having a one percent (1%) chance of being equaled or exceeded in any given year, which is considered to be a 100-year flood.

10A-03-95 FLOOD PLAIN or FLOOD PRONE AREA. Land area designated as being the intermediate regional flood plain by the Corps of Engineers, May 1974 Flood Plain Information Report, Snake and Malheur Rivers.

10A-03-96 FLOOD PROOFING. Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

10A-03-97 FRONTAGE. The dimension of a property line abutting a public or private street measured along such street between an intersecting or intercepting street and another intersecting or intercepting street, a right-of-way in excess of thirty feet, an end of a dead-end street, a river, a

lake or a city boundary.

10A-03-98 FRONTAGE STREET OR ROAD. A minor street which parallels an arterial street in order to provide access to abutting properties and minimize direct access onto the arterial.

10A-03-99 GARAGE, PRIVATE. An attached or detached structure used for the parking of automobiles or other vehicles for the tenants, or owners of the property for which the parking spaces contained in on said garage are permitted by this Title.

10A-03-100 GRADE. The vertical location of the ground surface. Existing grade is the grade prior to grading. Rough grade is the stage which the grade approximately conforms to an approved plan. Finished grade is the final grade of the site which conforms to the approved plan. Finished grade is measured as the lowest elevation of the finished surface of the ground paving or sidewalk within the area between the building and the property line or when the property lines is more than five feet from the building between the building and a line five feet from the building.

10A-03-101 GRADING. Any excavating or filling or combination thereof.

10A-03-102 GROUP HOME. See "Residential Care Facility."

10A-03-103 GUEST HOUSE. Living quarters within an accessory building located on the same premises with a main building and occupied solely by members of the family of the property owner or temporary guests. Such quarters shall have no kitchen and shall not be rented or otherwise used as a separate dwelling unit and shall be classified as a building in determining lot coverage.

10A-03-104 HABITABLE FLOOR. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or any combination thereof. A floor used only for storage purposes is not a "habitable floor."

10A-03-105 HAZARD TO AIR NAVIGATION. A obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace in the airport vicinity.
10A-03-106 HEALTH HARDSHIP. Circumstances where the placement of a temporary residence to accommodate a seriously ill person or their attendant is justified by the absence of a reasonable alternative.

10A-03-107 HEIGHT, BUILDING. The distance measured from the grade, as defined herein, at the front face of building to the highest point on the roof or parapet of the building.

10A-03-108 HOME OCCUPATION. A business, profession, occupation or trade conducted for gain or support entirely within a residential building, or a structure accessory thereto, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building, and which meets the performance standards of this title pertaining to home occupations.

10A-03-109 HORIZONTAL SURFACE. A horizontal plane 150 feet above the established airport elevation (this is 2339 feet above mean sea level for the Ontario Municipal Airport) the perimeter of which is constructed by swinging runways 5,000 feet from the center of each end of the Primary Surface of each visual or utility runway and 10,000 feet from the center of each end of the Primary Surface of all other runways and connecting the adjacent arcs by lines tangent to those arcs.

10A-03-110 HOTEL. A building in which lodging is provided for transients in a room or group of rooms forming a single habitable unit used or intended to be used for short term living and sleeping and containing five or more units.

10A-03-111 HOTEL, BED AND BREAKFAST. A building in which lodging is provided for transients in a room or group of rooms forming a single habitable unit used or intended to be used for sleeping, but not for cooking of meals and containing up to four units.

10A-03-112 JUNK YARD. A lot, land or structure, or part thereof, used for the purchase, collection, storage, recycling or sale of wastepaper, rags, scrap metal or other scrap or discarded goods, secondary metals, materials, machinery or vehicles. Such activities, when conducted entirely within enclosed building and meeting performance standards of this title may be other than a junk yard.

10A-03-113 KENNEL. A building or lot on which four or more domesticated animals more than six months of age are housed, bred, boarded, trained or sold.

10A-03-114 KEY. A designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.

10A-03-115 LAND DEVELOPMENT. The subdividing or partitioning of land for any purpose into lots or parcels, or the creation of lots, units or parcels, for the purposes of sale or lease for a term of more than one year, and including the creation of a planned development. The term also includes the intent to dispose of any land, whether contiguous or not, including any land divided into lots, parcels, or units, which are offered as part of a common promotional plan of advertising, and disposition of land where the land development is offered for disposition by a single developer or a group of developers acting in concert. If the land is contiguous or is known, designated, or advertised as a common unit, or by a common name, the land shall be presumed, without regard to the number of lots covered by an individual offering, to be offered for land disposition as part of a common promotional plan.

10A-03-116 LAND DIVISION. To create new lots or parcels from an existing lot or parcel; to partition or subdivide.

10A-03-117 LAND USE DECISION. A land use decision includes a final decision or determination by the City Council or its designee that concerns the adoption, amendment or application of:

1. The Statewide Planning Code;

2. The Comprehensive Plan Provision; or
3. A land use regulation

A land use decision does not include a decision of a local government:

1. Which is made under land use standards which do not require interpretation or the exercise of factual, policy or legal judgment;
2. Which approves, approves with conditions or denies a subdivision or partition, as described in ORS Chapter 92, located within an urban growth boundary where the decision is consistent with land use standards; or
3. Which approves or denies a building permit made under land use standards which do not require interpretation or the exercise of factual, policy or legal judgment;

10A-03-118 LANDSCAPING. The planting and continuous maintenance of some combination of trees, scrubs, vines decorative ground covers, flowers, or lawns. In addition, landscaping combinations or designs may include natural features such as rock and stone, and architectural or structural features such as fountains, reflecting pools, art works, screens, fences, and benches; so long as such natural features or architectural or structural features do not comprise more than 35% of an area required to be landscaped under the provisions of this Title. Continuous maintenance shall mean necessary watering through the installation of a permanent irrigation system; and weeding, pruning, and replacement upon loss, of all required landscaping decorative materials.

10A-03-119 LEVEL OF SERVICE. For transportation, a qualitative measure describing operational conditions within a traffic stream, generally described in terms of such factors as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety. At intersections, level of service is measured in terms of average delay and correlated to grades from LOS A which indicated little delay, to LOS F which indicates significant delay.

10A-03-120 LOADING SPACE, OFF-STREET. An unobstructed, dust free, hard surface area no part of which is located in any street or other public right-of-way and the principal use of which is for the standing, loading or unloading of trucks and trailers.

10A-03-121 LOT. A unit of land that is created by a subdivision of land, unless the context clearly indicates a lot of record, in which case a "lot" is a lot of record.

10A-03-122 LOT AREA. The total horizontal area included within the lot lines.

10A-03-123 LOT, CORNER. A development site abutting on two or more sides at their intersection or junction or a lot bounded on two or more sides by a curving street where the angle of intersection of such street right-of-way lines, or in the case of curved right-of-way lines, the extension of tangents drawn from each of the points of intersection of the side lot lines and the

street right-of-way line, intersect with each other to for an interior angle of less than one hundred thirty five degrees.

10A-03-124 LOT COVERAGE. The percentage of development site area occupied by the ground area of principal and accessory buildings on such a site.

10A-03-125 LOT INTERIOR. A development site other than a corner lot.

10A-03-126 LOT LINE. The boundaries of a development site unless the context clearly indicates a lot of record.

10A-03-127 LOT LINE, REAR. The lot line which is opposite and most distant from the front lot line.

10A-03-128 LOT LINE, SIDE. Any lot line other than a front or rear lot line. For the purpose of this title, on corner lots, the lot lines intersecting the front lot lines shall be considered side lot lines even though there is then no rear lot lines.

10A-03-129 LOT OF RECORD. Land designated as a separate and distinct parcel in a subdivision, the plat of which has been recorded in the office of the County Clerk of Malheur County, Oregon, or a parcel of land, the deed to which was recorded in the office of the County Clerk of Malheur County prior to the adoption of this Title. In parts of the city where platted lots, individually, are not legal building sites, Tax Lots are shown on the records of the Malheur County Assessor, of legal size for building, shall be a development site of record.

10A-03-130 LOT, THROUGH. A development site having frontage on two streets, which streets do not intersect, or do not intersect adjacent to or abutting the lot in question, but not including a corner lot.

10A-03-131 LOT WIDTH. The distance between side lot lines measured at the rear of the front yard on a line parallel with a line tangent to the street right-of-way.

10A-03-132 LOT, ZONING A single tract of land, located within a single block, which at the time of filing for a building permit or a certificate of occupancy is designated by the owner or developer as a tract to be used, developed or built upon as a unit, under single or unified ownership or control, and assigned to the particular use, building or structure for which the building permit or certificate of occupancy is issued, and including such area of land as may be required by the provisions of this title for such use, building or structure. The designated zoning lots, which may or may not coincide with platted lots, conforms with the dimensional and area provisions of this Title.

10A-03-133 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 the floodable area design standards of this Title.

10A-03-134 MANUFACTURED HOME: A structure that has a Department of Housing and Urban Development label certifying that the structure is constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 as amended; has plumbing and cooking facilities, is intended for human occupancy, and is intended for use as a residence."

10A-03-135 MINI STORAGE FACILITY. A structure or building, the interior of which has been partitioned or sectioned off into individual storage units or compartments which do not exceed 1000 square feet in gross floor area per unit (may also include three or more individually constructed units) and are individually rented or leased for a specified amount of time.

10A-03-136 MITIGATION. To avoid, rectify, repair, or compensate for negative impacts which result from other actions (e.g., Improvements to a street may be required to mitigate for transportation impacts resulting from development.)

10A-03-137 MOBILE HOME PARK (MANUFACTURED HOME PARK). A plot of ground upon which two or more mobile homes are parked within 500 feet of one another on a lot, tract, or parcel of land under the same ownership or control, the primary purpose of which is to rent space or keep space for rent to any persons for a charge or fee paid, or to be paid for the rental or use of facilities, or to offer space free in connection with securing the trade or patronage of such persons.

10A-03-138 MODULAR HOUSING OR BUILDING. A prefabricated building or structure which has been in whole or substantially part manufactured at an off-site location to be wholly or partially assembled on site and which complies with the specifications of the Uniform Building Code.

10A-03-139 MOTEL. A group of attached or detached hotel units with individual toilet facilities operated for transients and so constructed that transients' vehicles may be parked at or near the unit.

10A-03-140 MULTI-USE PATH. A path physically separated from motor vehicle traffic by an open space or barrier and either within a roadway right-of-way or within an independent right-of-way, used by bicyclists, pedestrians, joggers, skaters, and other non-motorized travelers.

10A-03-141 NOISE SENSITIVE AREA. The area within 1,500 feet of an airport or within established noise contour boundaries exceeding 55 DNL.

10A-03-142 NONCONFORMING LOT OF RECORD. A lot of record which does not comply with the lot requirements of any permitted use in the zone in which it is located.

10A-03-143 NONCONFORMING STRUCTURE OR USE. A building or structure or portion thereof, or use of land or a structure, lawfully existing as of the effective date of this title, or an

amendment thereto, which does not meet the use, space limits, parking, loading, landscaping or other requirements of this Title or any amendments thereto.

10A-03-144 NON-PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved, or planned, or indicated on an FAA or state planning document or military service airport planning document.

10A-03-145 NURSING HOME. An establishment which provides full time convalescent or chronic care, or both, for two or more individuals who are not related by blood or marriage to the operator and who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. No care of the acutely ill or surgical or obstetrical services are provided in such establishment. A hospital shall not be construed to be included in this definition.

10A-03-146 OPEN SPACE. A portion of a development site required by this title to be landscaped and kept free of structures, driveways and paved walks.

10A-03-147 OWNER. The holder of legal title as well as holders of any equitable interest, such as trust beneficiaries, contract purchasers, option holders, lessees under leases having an unexpired term of at least ten years, and the like. Whenever a statement of ownership is required by this Title, full disclosure of all legal and equitable interests in the property is required.

10A-03-148 PARCEL. A unit of land created by partitioning of land.

10A-03-149 PARTITION LAND. To divide land into two or three parcels of land within a calendar year but does not include:

1. A division of land resulting from a lien foreclosure of a recorded contract for the sale of real property.
2. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with all the applicable provisions of this ordinance (See Chapter 10B-52 PROPERTY LINE ADJUSTMENT).
3. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with all the applicable provisions of this ordinance and ORS 215.213 (2) (q) to (s) and 215.283 (2) (p) to (r).

10A-03-150 PARTITION, MAJOR. A partition which involves the creation of a street.

10A-03-151 PARTITION, MINOR. A partition which does not involve the creation of a street.

10A-03-152 PARTITION PLAT. A final map and other writing containing all the descriptions, locations, specifications, provisions, and information concerning a major or minor partition.

10A-03-153 PAVING, HARD SURFACE. A surface utilized for a street, road, or other vehicular travelway, or for parking and maneuvering areas, consisting of asphalt or concrete to City specifications for such. Compacted asphalt grindings, and in some cases chipseal, may be used for parking and maneuvering areas in Industrial Zones.

10A-03-154 PAVEMENT MARKINGS. Painted or applied lines or legends placed on a roadway surface for regulating, guiding, or warning traffic.

10A-03-155 PEDESTRIAN. A person on foot, in a wheelchair, or walking a bicycle.

10A-03-156 PEDESTRIAN FACILITY. A facility provided for the benefit of pedestrian travel, including walkways, crosswalks, signs, signals, illumination, and benches.

10A-03-157 PLACE OF PUBLIC ASSEMBLY. A structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation, or similar activity.

10A-03-158 PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), Microwave Landing System (MILS), Global Positioning Satellite (GPS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is not indicated by an FAA approved airport layout plan; any other FAA or state planning document, or military service airport planning document.

10A-03-159 PRIMARY SURFACE. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the Primary Surface extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the Primary Surface ends at each end of that runway. The width of the primary Surface is 250 feet for utility runways having only visual approaches, 5,000 feet for utility runways having non-precision instrument approaches, 5,000 feet for other than utility runways having only visual approaches or non-precision instrument approaches with visibility minimums greater than three-fourths of a mile and 1,000 feet for non-precision instrument runways with visibility minimums of three-fourths of a mile or less and for precision instrument runways.

10A-03-160 PRIVATE ROAD. A road not dedicated to the public and not maintained by a governmental jurisdiction.

10A-03-161 PROPERTY LINE ADJUSTMENT. The relocation of a property line which is a common boundary between two contiguous lots or parcels; no additional lot or parcel may be created and the existing parcel is not being reduced in size below the minimum standards applicable to the existing zoning.

10A-03-162 PERSON. A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

10A-03-163 PLANNING OFFICIAL. The City of Ontario Planning and Zoning Administrator, or a City employee so designated by the City Manager.

10A-03-164 PLANNING DIRECTOR. The City of Ontario Planning and Zoning Administrator.

10A-03-165 PRIMARY SURFACE. A surface longitudinally centered on a runway. The primary surface extends 200 feet beyond the end of the hard surface of the runway.

10A-03-166 PRIMARY ZONE. A zoning classification which is intended to be mapped independently of any other zone. Overlay zones may be superimposed (appended) upon a primary zone.

10A-03-167 PRINCIPAL PERMITTED USE. That use of a development site which is among the uses allowed as a matter of right under the zoning classification.

10A-03-168 PRIVATE RECREATION CLUB. A club operating such facilities as a golf course, swimming pool, tennis courts and neighborhood clubhouses, open only to membership subscribing for the use of the facilities for a term of not less than one year, and member's guests. Clubs operating as restaurants, cocktail lounges, card rooms, beer taverns, bars, bowling alleys, pool and billiard parlors shall not be interpreted as being private recreation clubs.

10A-03-169 PUBLIC ROAD A road dedicated to the public, or to the City of Ontario, and, maintained by a the City of Ontario.

10A-03-170 RECREATION VEHICLES. Recreation vehicles include travel trailers, motor homes and similar devices. These vehicles are designed for recreational purposes, but not as a domicile.

10A-03-171 REPLAT. A final map of the reconfiguration of lots and easements of a recorded subdivision or partition plat and other writings containing all the descriptions, location, specifications, dedications and provisions and information concerning a recorded partition or subdivision.

10A-03-172 RESIDENTIAL CARE FACILITY. An authorized or licensed residence operated by a public or private agency duly authorized by the Oregon Department of Human Resources or other State agency having authority to license and approve such facilities which house individuals deemed by the agency to be capable of living and functioning in the community when being cared for by the agency and receiving continuous professional guidance. A "group home" is a subclass of residential care facilities provided as a place of residence for mentally disabled or handicapped persons who do not require specialized care and where such persons are provided with room, board, ordinary care, and supervision in a family environment.

Such persons are not likely to own or drive automobiles and are thus deemed a special class in the administration of off street parking requirements of this Title.

10A-03-173 RETAIL SHOPPING ESTABLISHMENT. A store or shop engaged in the sale of commodities or goods to individual customers for personal use rather than for resale, including but not limited to:

- Antique store;
- Appliance, television and electronics sales;
- Art gallery, commercial;
- Art and craft supplies, drafting and architecture or engineering supplies and equipment;
- Auto parts and accessory stores, but not including machine shops or installation facilities;
- Bakery;
- Bicycle sales and repair shop;
- Bookstore, except adult bookstore;
- Building supplies, primarily retail;
- Candy and ice cream store;
- Clothing, accessories and dry goods;
- Computer store;
- Cosmetics store;
- Department Store;
- Drug and Drug-variety store;
- Fabric store;
- Floor coverings store;
- Florist shop;
- Furniture store;
- Greenhouse;
- General merchandise store;
- Gift and card shop
- Grocery, delicatessen and specialty store;
- Hardware, paint and wallpaper;
- Jewelry store;
- Lawn and garden supply (including plant materials) store;
- Leather goods and luggage store;
- Meat, fish market, retail, provided that no killing, eviscerating, skinning, plucking or smoking of food products occurs on the premise;
- Medical supplies and equipment;
- Music instrument and record store;
- News and tobacco store;
- Pet Shop;
- Photographic equipment and supplies store;
- Record sales or rental store;
- Rental of small tools, household and sickroom equipment;
- Shoe store;
- Sporting goods store;
- Stationary store;
- Television sales or rental store;

Toy and hobby store;
Variety store;
Video recordings sales and rentals, except adult

10A-03-174 RIGHT-OF-WAY. A general term denoting publicly-owned land, property, or interest therein, usually in a strip, acquired for or devoted to a specific purpose, usually transportation.

10A-03-175 ROADWAY. The improved portion of an easement or right-of-way, excluding curbs, sidewalks, and ditches. Road, roadway, and street will be considered interchangeable terms.

10A-03-176 ROOMING-HOUSE. A dwelling containing one or more lodging rooms that accommodate three but not more than eight roomers who are not transients, for compensation by prearrangement for definite periods. The letting of rooms for hire, to the extent permitted by this Title as a home occupation, does not in itself cause a dwelling to be a rooming house.

10A-03-177 RUNWAY. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

10A-03-178 RUNWAY APPROACH ZONE (RAZ). An area off the runway end (formerly the clear zone) used to enhance the protection of people and property on the ground. The RAZ is trapezoidal in shape and centered about the extended runway centerline. It begins 200 feet (60 m) beyond the end of the arcs usable for takeoff or landing. The RAZ dimensions are functions of the type of aircraft and operations to be conducted on the runway.

10A-03-179 RUNWAY, LARGER THAN UTILITY. A runway that is constructed for and intended to be used by propeller drive aircraft of greater than 12,500 pounds maximum gross weight and Jet-powered aircraft.

10A-03-180 RUNWAY, UTILITY. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

10A-03-181 RUNWAY, VISUAL. A runway that is intended solely for the operation of aircraft using visual approach procedures with no instrument approach procedures has been approved, or planned, or indicated on an FAA or state planning document or military service airport planning document.

10A-03-182 SCHOOL. An institution conducting regular academic instruction at elementary, secondary and college levels, but not including trade, technical or business schools conducted for profit.

10A-03-183 SEMINARY. A school or institution of secondary or higher education or an institution for training of candidates for the priesthood, ministry, or rabbinate, all of which are religiously oriented or supported by religion.

10A-03-184 SHARED DRIVEWAY. When land uses on two or more lots or parcels share one driveway. An easement or tract (owned in common) may be created for this purpose.

10A-03-185 SHARED ROADWAY. A type of bikeway where bicyclists and motor vehicles share a travel lane.

10A-03-186 SHOULDER. The portion of a roadway that is contiguous to the travel lanes providing for pedestrians, bicyclists, emergency use by vehicles and for lateral support of base and surface courses.

10A-03-187 SHOULDER BIKEWAY. A type of bikeway where bicyclists travel on a paved shoulder.

10A-03-188 SHY DISTANCE. The distance between the edge of a travelway and a fixed object.

10A-03-189 SIDEWALK. A walkway separated from the roadway with a curb, constructed of a durable, hard and smooth surface, designed for preferential or exclusive use by pedestrians.

10A-03-190 SIGHT DISTANCE. The distance a person can see along an unobstructed line of sight.

10A-03-191 SIGN. An identification, description, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land, and which directs attention to a product, place, activity, person, institution or business. Signs shall be considered accessory uses, except that outdoor advertising signs shall always be considered a principal land use.

10A-03-192 SIGN, OUTDOOR ADVERTISING. A sign which advertises:

1. Goods, products or services which are not sold, manufactured or distributed on or from the premises on which the sign is located, or
2. Facilities not located on the premises on which the sign is located.

Real estate for sale signs or moderate size, or bus stop benches or shelters with advertising on them, shall not be considered outdoor advertising signs.

10A-03-193 SIGN, PORTABLE. A sign which is not affixed to the ground or to another structure.

10A-03-194 SLOPE. An inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

10A-03-195 SOIL. Naturally-occurring surface deposits overlying bedrock.

10A-03-196 START OF CONSTRUCTION. For flood plain management purposes, includes substantial improvement, and means the date the building permit was issued, provided the actual

start of construction, repair, reconstruction, placement or other improvement was within 180 days of permit date. 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 placement of a manufactured home 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 of a basement, footings, piers or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or shed not occupied as dwelling units or not part of the main structure.

10A-03-197 STREET. The area within the right-of-way lines of a way of place, other than an alley, dedicated or acquired for public use for vehicular traffic or access whether open or un-open to such traffic or access.

10A-03-198 STREET, ARTERIAL. A street of considerable continuity which is primarily a traffic artery for intercommunication among large areas.

10A-03-199 STREET COLLECTOR. A street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas; used to some extent for through traffic and to some extent for access to abutting properties.

10A-03-200 STREET CONNECTIVITY. The number of street connections within a specific geographic area. Higher levels of connectivity provide for more direct transportation routes and better dispersion of traffic, resulting in less traffic on individual streets and potentially slower speeds through neighborhoods.

10A-03-201 STREET, CUL DE SAC. A short street having one end open to traffic and being terminated by a vehicle turn-around.

10A-03-202 STREET, DEAD END. A street having one end open to traffic and the other end temporarily terminated until a later extension.

10A-03-203 STREET, HALF. A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision or parcel.

10A-03-204 STREET, MARGINAL ACCESS. A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

10A-03-205 STREET, MINOR OR LOCAL. A street intended primarily for access to abutting properties.

10A-03-206 STREET PLUG. Land reserved for future extension of a street.

10A-03-207 STREET STUB. A temporary street ending; i.e., where the street will be extended

through adjacent property in the future, as those properties develop. Not a permanent street-end or dead-end street.

10A-03-208 STRUCTURAL ALTERATION. A change to the supporting members of structure including foundations, bearing walls, or partitions, columns, beams, girders, or any structural change in the roof or exterior walls.

10A-03-209 STRUCTURE. Anything constructed or built, any edifice or building of any kind or any place artificially built up or composed of parts joined together in some definite manner which requires location above or below the grade of the ground, or is attached to something having a location above or below grade including swimming and wading pools, covered patios and gas or liquid storage tanks. This definition does not include outdoor areas such as paved areas, walks, tennis courts and similar recreation areas.

10A-03-210 STRUCTURE, PRINCIPAL. A structure housing the use listed as a principal permitted use, conditional use, or a legal non-conforming use.

10A-03-211 SUBDIVIDED 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 unified ownership at the beginning of such year.

10A-03-212 SUBDIVISION. Either an act of subdividing land or an area or tract of land subdivided as defined in this Section.

10A-03-213 SUBDIVISION PLAT. A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

10A-03-214 SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty 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 the existing state or local health, sanitary or safety code specifications solely necessary to assure safe living conditions, or to any otherwise lawful alteration of a structure listed on the National Register of Historic Places or a state or local officially adopted register of inventory of historic places.

10A-03-215 TECHNICAL REVIEW COMMITTEE (TRC). A committee established to act in a Technical Review capacity for the City of Ontario and shall have the responsibility to examine all land partitions, including subdivision and planned development plats. The Technical Review Committee shall assist the Planning Director in rendering a decision relating to approval, conditional approval or disapproval of said applications. The TRC shall not limit its authority to land divisions only, but shall also assist in reviewing other issues requiring technical review.

10A-03-216 TENTATIVE PLAN. A plat setting forth the proposed plan of any minor or major land partition, subdivisions, or planned development that is in conformance with the provisions of this ordinance and is subject to review by the Planning Director and/or the Technical Review Committee.

10A-03-217 TERRACE. A relatively level step constructed in the face of a graded surface for drainage and maintenance purposes.

10A-03-218 TRAFFIC CALMING DEVICES. Physical devices within the roadway designed to manage traffic speeds or which disperse traffic such as speed bumps/humps and traffic circles.

10A-03-219 TRANSITIONAL SURFACE. An imaginary surface extending seven feet outward for each one foot upward (7:1) beginning on each side of the Primary Surface which point is the same elevation as the runway surface, and form the sides of the approach surfaces thence extending upward to a height of 150 feet above the airport elevation (Horizontal Surface).

10A-03-220 TRUCK STOP. A parcel of ground used primarily for the fueling of transient trucks. Other services commonly associated with a truck stop include personnel services for truckers, cargo broker's offices, restaurants, sleeping accommodations for truckers only, wash racks and servicing bays and facilities for fueling passenger vehicles.

10A-03-221 USE. The purpose for which land or a structure is designed or arranged, or for which it is occupied or maintained.

10A-03-222 UTILITY TRAILER. A device used for hauling or transporting and is designed to be pulled by a motorized vehicle. For the purpose of this ordinance, a utility trailer shall include, but not be limited to the following: Boat trailers, golf cart trailers, horse trailers, open or closed trailers designed to haul wood or garbage, etc., trailers designed to transport recreational vehicles or any other similar piece of equipment which cannot be moved under its own power.

10A-03-223 VC RATIO. The ratio of demand flow rate to capacity for a traffic facility.

10A-03-224 VOLUME. The number of persons or vehicles passing a point on a lane, roadway, or other trafficway during some time interval, often taken to be one hour, expressed in vehicles.

10A-03-225 WALKWAY. A transportation facility built for use by pedestrians, including persons in wheelchairs. Walkways include sidewalks, paths, and paved shoulders.

10A-03-226 WAREHOUSE. A structure or building rented, leased or owner occupied, unpartitioned or open partition whose primary function is for storage and whose gross floor area exceeds 1500 square feet.

10A-03-227 WIDE OUTSIDE LANE. A wider than normal curbside travel lane that is provided for ease of bicycle operation where there is insufficient room for a bike lane or shoulder or shoulder bikeway.

10A-03-228 YARD. A required open space on a lot between a lot line and a building or structure which is occupied and unobstructed from grade to the sky, except for permitted encroachments.

10A-03-229 YARD, FRONT. A required yard between the principal building and the front lot line, the depth of which is measured as the least distance between the front lot line and the principal building.

10A-03-230 YARD, REAR. A required yard extending the full width of the development site, the depth of which is measured as the least distance between the rear lot line and the rear of the principal building.

10A-03-231 YARD, SIDE. A required yard between the principal building and the side lot lined extending from the front yard to the rear yard, the depth of which is measured as the least distance between the side lot line and the side of the principal building.

10A-05-01 ZONES, PURPOSE. In order to carry out the purposes and provisions of this Title, the Comprehensive Plan and City policies, the City of Ontario, Oregon, is divided into zones.

10A-05-05 ZONES, LIST. The following zones are established for application to lands within the City of Ontario, Oregon:

Residential Zones:

RS-50, Single Family Residence Zone;
RD-40, Duplex Residence Zone;
RM-10, High Density, Multi-Family Residence Zone;
R-MH, Manufactured Homes Residence Zones;
R-MHO, Manufactured Home Residence Overlay Zone;
TRO, Transitional Residential Overlay Zone

Commercial Zones:

C-1, Neighborhood Commercial Zone;
C-2, General Commercial Zone;
C-2-H, Heavy General Commercial Zone;
C-3, Central Commercial Zone;

Industrial Zones:

BP, Business Park Zone;
I-1, Light Industrial Zone;
I-2, Heavy Industrial Zone;

Specialized Zones:

AD, Airport Development Zone;
FHO, Flood Hazard Overlay Zone;
PD, Planned Development Zone;
E-2, Employment, Two-Acre Minimum Parcel Size Zone;
E-5, Employment, Five-Acre Minimum Parcel Size Zone

10A-05-10 OFFICIAL ZONING MAP. The location, size, shape, and boundaries of the zones established shall be indicated on the atlas of maps entitled "official zoning map." The official zoning map and all notations, references and other information shown there on shall have the same force and effect as if fully set forth or described herein and by this reference made a part of this Title and such maps, after being adopted by reference as part of this Title, and so certified by the City Recorder, together with the text shall be maintained in the office of the planning official, and such atlas shall be the official zoning map for purposes of enforcement of this Title. Any amendment to the zoning classifications on the official zoning map shall include the legal description to the land involved, including appropriate adjacent public rights-of-way or public

property, and such amendments shall be properly and permanently noted, along with the ordinance and date of enactment on the face of the maps in the custody of the planning official.

10A-05-15 ZONING MAP, OMITTED LAND. It is the intent of this Title that the entire area of the city, including all land and water areas, rivers, streets, alleys, railroads and other rights of way, be included in the zones established by this Title. Any area not shown on the official zoning map as being included in a specific zone shall not be deemed to be, and is hereby included in a specific zone classified as the RS-50, Single Family Residential Zone.

10A-05-20 ZONING MAP, BOUNDARY INTERPRETATION. Wherever any uncertainty exists as to the boundary of a zone as shown on the Official Zoning Map, the following regulation shall control:

1. Where a boundary line is indicated as following a street or alley, it shall be construed as following the center line of such street or alley.
2. Where a boundary line follows or approximately coincides with a lot or property ownership lines, it shall be construed as following such line.
3. Where a boundary line is not indicated as following or approximately coinciding with a street, alley, lot line or property ownership line, the boundary line shall be determined by the Planning Official using the Zoning Map.
4. Where the boundary line of a zone divides a lot in single ownership, then the boundary line shall be considered as the lot line for purposes of computing area and setback for uses which are permitted in the less restrictive zone. For uses which are permitted in the more restrictive zones, the ownership lines may be used in applying the area and setback regulations.

10A-05-25 NONCONFORMING LOTS AND USES, PURPOSE: There exist lots, structures, and uses of structures, and land which were lawful before this Title was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Title. It is the intent of this Title to permit these non-conformities to continue until they are removed, except where amortization periods for specific uses are set forth in this Title, but not to encourage their survival. Such non-conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.

10A-05-30 NONCONFORMING LOT OF RECORD, TAX LOT. If two or more platted lots or combination of platted lots or portions of platted lots with continuous frontage in single ownership are on record as a single tax lot at the time of passage of this Title, and if all or part of the platted lots do not meet the requirements for lot width and area as established by this Title, no portion of said parcel shall be used or sold which does not meet lot width and area requirement established by this Title, nor shall any division of a parcel be made which leaves remaining any lot with width areas below the requirements stated in this Title.

10A-05-35 NONCONFORMING USES. If a use of a building, structure, or land exists at the effective date of adoption or amendment of this Title and such use is not allowed in the zone under the terms of this Title, the uses may continue so long as it remains otherwise lawful, subject to the following provisions:

1. A nonconforming use or structure may continue but may not be altered or extended to another part of the structure or site without approval as a conditional use for a nonconforming use exception.
2. The discontinuance of a nonconforming use of land for six months out of any twelve consecutive months or change of nonconforming use of land to some other kind of nonconforming use constitutes abandonment and termination of the nonconforming use, and thereafter the use of the land must conform to the regulations of the zone in which it is located.
3. A nonconforming use may be changed to any use of the same or a lesser degree of nonconformity, or a use permitted in the zone in which the use is located. When a nonconforming use has been changed to more nearly conforming use or to a permitted use, it shall not thereafter be changed back to a use with a greater degree of nonconformity. For purposes of this subsection, a use shall be deemed to have been so changed when an existing nonconforming use shall have been terminated and a use with a lesser degree of nonconformity or a permitted use shall have commenced and continued for a period of seven days. The principal permitted uses listed under a specific zone shall be interpreted to have the same degree of nonconformity for purposes of this section.

If a nonconforming structure containing a nonconforming use is destroyed by any cause to an extent exceeding 60 percent of its true cash value as indicated by the records of the Malheur County Assessor, a future structure or use on the site shall conform to this Title, or approval for restoration to the prior nonconforming use must be obtained within one year of occurrence of the destruction.

Nothing contained in this Title shall require any change in the plans, construction, alteration, or designated use of a structure for which a permit has been issued by the City and construction has commenced prior to the adoption of this Title; provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the permit is issued.

10A-05-40 TERMINATION OF CERTAIN USES AND STRUCTURES IN ACCORDANCE WITH AMORTIZATION SCHEDULES. Certain uses involving a high degree of incompatibility shall be terminated or altered as herein prescribed:

1. Fences, walls and foliage which impair sight distances at a curve or intersection and thereby constitute a hazard to pedestrian or vehicular traffic shall be made conforming within one calendar year of notification of the nonconformity by the

Planning Official, however, this procedure shall not preclude the abatement of acutely dangerous conditions through other powers of the city.

2. Nonconforming open storage operations, such as truck parking, automobile wrecking, salvage material storage and similar uses not involving structures shall be terminated or made conforming within one calendar year of notification by the Planning Official.
3. All uses in business and manufacturing zones shall be altered so as to comply with all provisions of this title setting forth specifications for fencing or screening within one calendar year of notification by the Planning Official.

Provisions of the abatement of certain nonconforming signs are found in the sections of this Title dealing with signs.

10A-05-45 DEVELOPMENT SITE TO BE DESIGNATED. Every building hereafter erected or modified, or every use established, shall be located on a development site which has been declared on the application for a building permit as the site for the proposed use. Such site shall meet the area, dimension and street frontage requirements of this Title and be adequate in size and shape to accommodate all proposed structures, yard spaces, off-street parking and loading, and corner visibility. Only one principal structure may be built upon a single development site, except as may be otherwise specified in this Title.

10A-05-50 DEVELOPMENT SITE STREET FRONTAGE. Each development site shall front upon a public street for a minimum width of 50 feet; except that a development site on the outside radius of a curved street or a circular end of a cul de sac shall have a frontage of not less than 40 feet upon the abutting street, and further except that in a zone where multiple family residential structures are allowed, attached single-family housing units may have a lot width conforming to the provisions of the zone in which the development is located.

10A-05-55 DEVELOPMENT SITE PRESERVATION. No sale, conveyance, transfer or use of any portion of a development site for other than a public purpose, shall leave a structure or use on the remainder of the site with less than the minimum site area, dimensions, yards, parking or loading, or resulting in a site with less than the minimum buffering or screening requirement of this Title. No yard or other space provided about any building for the purpose of complying with this Title shall be considered as providing a yard or other space for any other building or any other development site.

10A-05-60 DEVELOPMENT SITE, UTILITIES REQUIRED. No development site shall be used for a building unless it is served by municipal water and sewer, unless the director of public works finds that providing one or both such services is impractical at the time of application for a building permit.

10A-27-01 PURPOSE. To provide for areas of limited impact retail and office establishments, and similar uses, in neighborhoods that are primarily residential without harming the residential character of those neighborhoods.

10A-27-05 PRINCIPAL PERMITTED USES. The following principal uses are permitted as of right in the C-1 Zone:

1. Dwellings when constructed according to the space limits of RM-28 Zone;
2. Home occupations meeting standards herein;
3. Retail shopping establishments as defined herein;
4. Consumer service establishments as defined herein;
5. Dance and music studios;
6. Churches;
7. Schools and colleges, public or private, including commercial business or vocational schools or colleges;
8. Park and recreation facilities, public;
9. Private clubs and clubhouses as defined herein;
10. Residential care facilities housing not more than eight clients;
11. Roominghouse as defined herein;
12. Hotel, Bed and Breakfast, as defined herein;
13. Museums, concert halls, auditoriums and similar cultural facilities;
14. Horticulture and the growing of field crops or hay.
15. Public buildings, none of which may be of industrial character.
16. Business offices and general office buildings.
17. The manufacture of small items such as jewelry, fishing tackle and the like, or the repackaging of bulk small items with fewer than 10 employees. Fabrication of art or crafts objects, bakery goods, or ice cream for on premises sale or as custom orders for delivery.

18. Recreational vehicle park.
19. Medical, dental or other health professional office or clinic for humans.
20. Adult foster care for not more than five patrons.
21. Family Day Care Provider as defined herein;
22. Day Care Center as defined herein;

10A-27-07 SPECIAL USE LIMITATIONS. The following limitations or conditions shall apply in addition to any conditions or limitations applying to all zones, to all uses permitted or permissible in the C-1 zone:

1. All operations shall be conducted within a completely enclosed building, except for nursery stock consisting of green plants and shrubs, for the temporary outdoor display of merchandise located within five feet of principal building, patio or sidewalk restaurant service, railroad operations, and play yards of day care centers.
2. All products produced, kept, handled or offered for sale shall be sold only at retail on the premises.
3. No nonresidential use shall continue normal operations past the hour of eleven P.M. or earlier than seven A.M. except pursuant to a conditional use permit.
4. Not more than two delivery or service vehicles shall be used in the operation of any business.
5. No permitted or permissible separate business establishment shall occupy a floor area greater than five thousand square feet to conduct its operations and to store its wares, products, inventory and materials, except that grocery stores may occupy a floor area of fifteen thousand square feet.
6. Screening shall be provided along all lot lines abutting residentially zoned or developed property, sufficient to block substantially any view of the nonresidential use and its operation, stored materials and equipment from all points located on or not more than eight feet above the lowest elevation of such residential property, in the event such screening is not sufficient to block totally any view of stored waste or waste receptacles. In no event shall this section be deemed to require more than full enclosure (including roof) of stored waste including waste receptacles and an opaque fence not more than seven feet in height extending the full length of not more than three sides of the subject property. The required front yard shall be landscaped to the standards set forth under the miscellaneous provisions of this Title.

7. No use shall be established by the conversion of a building or premises originally designed for use as a gasoline service station or drive-in establishment unless the paved area on the lot in question shall have been reduced, by the addition of natural landscaping, to an area not greater than two hundred percent of the area required by this Title for Off-street parking, loading and access thereto.
8. No nonresidential use shall be established in any structure or premises originally designed for a residential use unless the existing residential character or the building shall be retained. Any design or structural change, additions or extensions shall be consistent with the architectural character of the original building.
9. No building designed and intended for a business use shall be constructed or established on a development site occupied by a residential building.
10. No permitted or permissible use shall be conducted in any manner which would render it noxious or offensive by reason of dust, refuse matter, odor, smoke, gas, fumes, noise, vibration or glare.
11. Space lighting shall be shielded so as to prevent the direct glare of beams onto any adjacent residentially zoned or used property.
12. Signs may project into any required front or rear yard as set forth in table 6-B of the Uniform Sign Code as adopted in this Title. Signs may project into a required side yard not more than 18 inches. One pole sign for each development site or building shall be allowed in each required front or rear yard.

10A-27-09 EXPRESSLY PROHIBITED USES. The following uses are listed here as expressly prohibited so as to facilitate interpretation of the list of principle permitted uses:

1. Automobile service establishment as defined herein;
2. Gasoline service stations;
3. Rental of large tools or construction equipment, trucks or trailers or other equipment requiring outdoor storage.
4. Warehousing, storage and distributing establishments or mini-warehouses;
5. Wholesale establishments with stock on the premises.
6. Bars, taverns, cocktail lounges and other establishments which sell beer or intoxicating liquor for the consumption on the premises, except for restaurants where such beverages are served incidental to meals.
7. Auction house;

8. Manufactured or mobile home parks or subdivisions.
9. Uses not specifically enumerated as permitted uses in the C-1 zone, but listed as permitted in another zone or as a conditional use in the C-1 or other zone.

10A-27-10 CONDITIONAL USES. The following uses are permitted conditionally in the C-1 Zone:

1. Dry-cleaning and laundry establishments which do not exceed 2,000 square feet in floor area and have no more than two delivery vehicles operating from the location;
2. Any permitted or permissible non residential use that operates later than eleven P.M. or earlier than seven A.M.;
3. Mortuaries or funeral homes;
4. Nursing Home;
5. Residential care facility housing more than eight clients; and
6. Utility facilities, other than distribution lines, at specific location necessary for the functioning of that utility.

10A-27-15 ACCESSORY USES. Accessory uses and structures common to all zones as listed in Chapter 10A-53 are allowed in the C-1 Zone.

10A-27-20 SPACE LIMITS. The building, zoning lot, open space and yard dimensions applicable to the C-1 Zone are found on the Commercial Space Limits Table, Chapter 10A-35.

10A-27-25 GENERAL PROVISIONS. The provisions of Chapter 10A-57, Miscellaneous Provisions, apply to the C-1 Zone, except that signs may project into any required front or rear yard as set forth in Table No. 6-B (projection of signs) of the Uniform Sign Code. Signs may project into a required side yard not more than 18 inches. One pole sign for each lot or building shall be allowed in any required front or rear yard.

CHAPTER 10A-29, C-2, GENERAL COMMERCIAL ZONE

10A-29-01 PURPOSE. The C-2 Zone is intended to provide business locations for retail and service uses serving a region-wide clientele. The zone is intended to be located in areas characterized by good accessibility, including those areas which are exposed to heavy automobile traffic.

10A-29-05 PRINCIPAL PERMITTED USES. The following principal uses are permitted as of right in the C-2 Zone:

1. All principal uses allowed in the C-1, Neighborhood Commercial Zone shall be allowed in the C-2 Zone except that dwellings shall be constructed to the space limits of the RM-10, Multi-Family Residence Zone;
2. Automobile service establishments as defined herein when all repairs or another work are performed within a building, where all refuse and scrap parts are stored in closed containers when possible and screened from view at all points on any public or private property or street and when all extended storage of wrecked vehicles or other equipment is screened from view from adjacent property and public streets;
3. Gasoline service stations, truck stops, minor automotive repair as defined herein;
4. Bars, taverns, cocktail lounges and other establishments which sell beer or intoxicating liquor;
5. Mortuaries or funeral homes;
6. Dry Cleaning and laundry establishments which do not exceed 2,000 square feet in floor area and have no more than two delivery vehicles operating from the location;
7. Hotel, motel;
8. The manufacture of small items such as jewelry, fishing tackle and the like, or the repackaging of bulk small items;
9. Outdoor advertising sign;
10. Residential care facility not limited as to number of clients;
11. Commercial recreation facilities or Recreation Vehicle Park;
12. Rental of small trucks and small trailers only when accessory to a gasoline service station or automobile service establishment;
13. Farm and garden store;
14. Wholesalers with stock involving less than 3,000 square feet of storage space;
15. Auction house;
16. Nursing home;
17. Amusement arcade;

18. Kennel; or
19. Veterinarian.

10A-29-09 EXPRESSLY PROHIBITED USES. The following uses are listed here as expressly prohibited so as to facilitate interpretation of the list of principal permitted uses:

1. Warehouses;
2. Wholesalers with stock involving over 3000 square feet of storage space;
3. Mobile home or manufactured home parks or subdivisions; or
4. Rental of large tools or construction equipment, trucks or other equipment requiring outdoor storage.

10A-29-10 CONDITIONAL USES. The following uses are permitted conditionally in the C-2 Zone:

1. Utility Facilities, other than distribution lines, at a specific location necessary for the functioning of that utility;
2. Fair, rodeo, stadium, race track or similar facility on a site of more than three acres;
3. Mini-warehouses;
4. Congregate Housing Facility.

10A-29-15 ACCESSORY USES. Accessory uses and structures common to all zones as listed in Chapter 10A-53 are allowed in the C-2 Zone.

10A-29-20 SPACE LIMITS. The building, development site, open space and yard dimensions applicable to the C-2 Zone are found on the Commercial Space Limits Table, Chapter 10A-35.

10A-29-25 GENERAL PROVISIONS. The provisions of Chapter 10A-57, Miscellaneous Provisions, apply to the C-2 Zone.

CHAPTER 10A-31, C-2-H, HEAVY GENERAL COMMERCIAL ZONE

10A-31-01 PURPOSE. To provide a zone to accommodate a wide range of retail, service and wholesale activities short of industrial usage.

10A-31-05 PRINCIPAL PERMITTED USES. The following principal uses are permitted as of right in the C-2-H Zone:

1. All principal uses allowed in the C-1 and C-2 commercial zones, except that dwellings shall be constructed to the space limits of the RM-28, Low Density Multi-Family Zone;
2. Rental of large tools or construction equipment, trucks or trailers or other equipment requiring outdoor storage;
3. Wholesale stores with stock;
4. Body, fender and paint shops, major automotive repair and automotive dismantling where all work is performed within a building, where all refuse and scrap parts are stored in closed containers, when possible, and screened from view at all points on any public or private property or street, and where all extended storage of wrecked vehicles or other equipment is screened from view from adjacent property and public streets;
5. Farm store, farm equipment dealer;
6. Truck stop with transient motel;
7. Printing and publishing;
8. Petroleum bulk plant with no more than 150,000 gallons of above ground storage and with no more than 25,000 gallons in any one above ground tank; and
9. Mini-warehouses.

10A-31-10 CONDITIONAL USES. The following uses and structures common to all zones as listed in Chapter 10A-53 are allowed in the C-2-H Zone.

1. Utility Facilities, other than distribution lines, necessary for the functioning of that utility.

10A-31-15 ACCESSORY USES. Accessory uses and structures common to all zones as listed in chapter 10A-53 are allowed in the C-2-H Zone.

10A-31-20 SPACE LIMITS. The building, development site, open space and yard dimensions applicable to the C-2-H Zone are found on the Commercial Space Limits Table, Chapter 10A-35.

10A-31-25 GENERAL PROVISIONS. The provisions of Chapter 10A-57, Miscellaneous Provisions, apply to the C-2-H Zone.

10A-57-35 LANDSCAPING, PERFORMANCE STANDARDS, PURPOSE. Landscaping is required with new or re-development to, at a minimum;

1. Improve the overall appearance and image of prosperity of the city;
2. Promote a city image attractive to sophisticated investment for furthering business, industrial and residential development, and to attract trade;
3. Modify both psychological and real summer high temperatures;
4. Screen less desirable views; and,
5. To aid in channeling traffic into and through larger developments.

10A-57-40 LANDSCAPING REQUIRED. All new development, and changes of use, including the construction of parking lots, shall have at least six percent of the development site area in landscaping, as defined herein, except where another standard is specified for a definite use, group of uses, or a zone.

10A-57-41 LANDSCAPING, INDUSTRIAL ZONES. Landscaping for Industrial Zones shall be determined using the sum total area of office space, space open to the public, and parking area; not the total lot area.

10A-57-42 LANDSCAPING, EXISTING STRUCTURES. A change of use that involves use of an existing structure may qualify for a reduction of the required 6% of the total lot area, however, all non-driveway street frontage must be landscaped as required by 10A-57-55 (2) below. The following standards, at a minimum, shall apply to those lots qualifying for a reduction:

1. The lot area that is possible to place landscaping in must have existing pavement meeting current City Standards to the extent that installing permanent (not planters) landscaping and an irrigation system would require removal of pavement to do so. An applicant cannot meet this requirement by paving the lot prior to receiving a building permit; this condition must be existing and not self-imposed.
2. The cost of installing the landscaping and irrigation system must be no less than 25% of the cost of the finished project that the property owner and/or applicant will bear, including all renovations, street improvements, utility extension or replacement, paving, signage, permits and all other costs involved in having a facility meeting all City Standards and State Laws for an open, functioning business of the type proposed.
3. In no case shall the amount of required landscaping be reduced more than 50%.
4. Notwithstanding the above, a variance may be requested under the provisions of Title 10A for any of the above requirements.

10A-57-45 LANDSCAPED RIGHT-OF-WAY. The Planning Official may allow an applicant, as part of the site plan review, to substitute landscaping of unused public right-of-way for part of the required landscaping when the right-of-way is not likely to be needed in the near future for street improvement, if the Public Works official gives written assent.

10A-57-50 LANDSCAPING INSTALLATION ASSURANCE. All landscaping shall be installed prior to the issuance of an occupancy certificate, unless security equal to 100% of the cost of the landscaping is filed with the city assuring such installation within six months of occupancy.

10A-57-55 LANDSCAPING, PERFORMANCE STANDARDS. All landscaping required by this title shall comply with the following performance standards:

1. 65% of the required 6% of the development site area landscaping shall be green and growing and shall be irrigated. Permanent landscaping shall be irrigated by means of an underground system; planters or boxes may be irrigated by daily manual watering with no permanent system. Plans shall be submitted with any required permit information that show the amount of landscaping in square feet that is required for the lot; the amount of landscaping proposed and the location of what is proposed; and, a description of the type of irrigation system. All required landscaping shall be continuously maintained in a neat, clean, healthy and growing condition. Landscaping that is not maintained is a violation of this code and a property owner may be subject to enforcement under the provisions of Title 10A and any other applicable City Code, and Oregon Law.
2. Required landscaping shall be distributed so that all non-driveway street frontages are landscaped, including in Industrial Zones, even if the area so used exceeds 6% of the total area required, including Industrial Zones. All of the required area cannot be satisfied by the use of remote and otherwise unusable portions of the development site.
3. Plantings used to screen a space frequently used by the public, such as a parking lot, shall have a combination of higher and lower growing species so as to provide for sight clearance at exits; for visual separation from the street, and for openings to allow police surveillance from the street.

EXHIBIT C

CHAPTER 10B-01 APPLICABILITY AND GENERAL PROVISIONS.

10B-01-05 TYPES OF ACTION IDENTIFIED. There are four levels of actions provided for in this Title as follows:

1. **Legislative Actions:** which include Comprehensive Plan Changes, Land Use Map Changes, Development Title Changes, Planned Development, and Annexations;
2. **Quasi-judicial Actions:** which include Conditional Uses, Variances, Zoning Map Changes, Temporary Use Permits, Non-conforming Use Exceptions, Subdivisions, and Partitions, and Development Design Standard Modification;
3. **Administrative Review Actions:** which include Administrative Variances, Lot Line Adjustments and Use List Interpretations. Historic structure alterations require an Administrative review and approval by the Planning Commission;
4. **Ministerial reviews:** which include, but are not limited to, processing building permit applications for zoning and land development regulation compliance, and determining if land or structures are in the flood hazard area.

10B-01-05 PUBLIC HEARINGS REQUIRED. Unless otherwise provided for in this Title or by statute, all Legislative Actions, Zone Changes and appeals to either the Planning Commission or City Council, require a public hearing as set forth in this Title before any final action can be taken. Such hearings shall be public hearings held in accordance with the notification and procedural requirements set forth in this Title.

10B-01-10 AUTHORITY FOR LEGISLATIVE ACTIONS. Legislative actions, including annexations, are a two-step process beginning with a hearing and recommendation to the City Council by the Ontario City Planning Commission; the City Council is the decision maker. Annexations are processed according to ORS 222.111, and where relevant, agreements between Malheur County and the City of Ontario governing the City's Urban Growth Area.

10B-01-15 USE LIST INTERPRETATION, APPEAL. An applicant who requests a Use List Interpretation Review shall go before the City Council.

10B-01-20 ENACTMENT OF A HEARINGS OFFICER. It is the intent of this Title to provide all applicants with a timely process for a fair and impartial review of submitted petitions. Therefore, the City Council creates the position of Hearings Officer, who shall conduct formal reviews, as necessary, on applications for such classes of Land Use Actions as are designated by this Title. The City Council shall designate the Hearings Officer by resolution.

10B-01-25 AUTHORITY FOR QUASI-JUDICIAL AND ADMINISTRATIVE REVIEW ACTIONS. The Hearings Officer shall conduct the Quasi-judicial Review required by this Title, and may approve or deny an application without a hearing if notice of the decision and an

opportunity for appeal of the decision is provided to those persons who would have had the right to notice if a hearing had been scheduled. The Hearings Officer may choose to give prior notice of an action, or may refer any action to the Planning Commission. The Hearings Officer shall make the final decision for the City on the following Quasi-judicial and Administrative Review Actions unless deferred to the Planning Commission:

1. Conditional Uses;
2. Variances;
3. Temporary Use Permits;
4. Non-conforming Use Exceptions;
5. Development Permits
6. Partitions
7. Subdivisions

The Hearing Officer's decisions are subject to appeal to the Planning Commission as provided for in ORS 227.180(1)(a).

10B-01-30 PLANNING DIRECTOR ADMINISTRATIVE STAFF REPORT. The Planning Official shall conduct investigations and prepare a staff report including recommendations and concerns, if any, on all land use action applications.

10B-01-35 AUTHORITY FOR MINISTERIAL REVIEWS. Each building permit shall be reviewed by the City Official, or his designate, responsible for the Fire, Public Works, Planning and Building Departments to assure compliance with all applicable titles of the City Code. The Planning and Building Officials shall check for compliance with Flood Plain Regulations for development located within the 100-year flood hazard area as designated on the FEMA flood plain maps.

10B-01-40 REVIEW AND UPDATING. At a regular interval every year, or more frequently if required by the Council, the Planning Official shall review the Comprehensive Plan and Zoning regulations as to the need for amendments to ensure consistency with the Statewide Planning Goals, and/or for amendments desired by the City.

10B-01-45 CITIZENS INVOLVEMENT AND COORDINATION. Citizen's involvement and agency coordination shall follow the Goal 1 element of the comprehensive plan.

10B-01-50 AGENCY COORDINATION. To assure effected agency involvement in the planning process, any application shall be referred to local, state and federal agencies, as deemed appropriate by the Planning Official or as mandated by law, by OAR 660-30, or by an Urban Growth Area Agreement, for their review and comment. Failure of an agency to comment upon a

proposal after an opportunity for review and comment shall be construed by the city to mean the agency has no objections to the proposal, and the agency shall not then have standing to appeal the matter.

CHAPTER 10B-02 APPLICATION FOR LAND USE ACTIONS

10B-02-10 APPLICATION AND STANDING TO INITIATE. An application for a land use action may be initiated by the owner of the property involved or an authorized agent. Authorization to act as an agent shall be in writing and filed with the application. The City Council, Planning Commission or the City Manager may initiate any appropriate type of proceeding.

10B-02-10 APPLICATION, FORM OF. Applications shall be filed on the appropriate form as prescribed by the city. Applications shall be signed by an authorized person, contain an adequate description of the property, any other specified information, and be accompanied by the site plan, all as deemed necessary by the Planning Official; appropriate fees shall be included.

10B-02-15 SITE PLAN, BASIC INFORMATION. When an application requires the submission of a site (plot) plan, that plan shall be submitted on 8 ½ x 11 inch sheets of medium that can be copied, or, if required by the Planning Official or the Director of Public Works, the plan shall be submitted on one or more sheets of printable medium a minimum of 18 x 24 inches in size and drawn to a scale of at least one inch equals 50 feet. The applicant may be required to supply a sufficient number of prints for all reviewing parties and files, or to pay the cost of making such prints. The site plan shall include the following information at a minimum:

1. Date.
2. North arrow.
3. Name of project or action.
4. Name, address and telephone number of the owner or authorized agent, if any.
5. Name, address and telephone number of design professional responsible for the site plan, if any.
6. Written and graphic scale.
7. Legal description of the property by address or tax lot and map number or lot and block number or all of the forgoing.

10B-02-20 ADDITIONAL DATA MAY BE REQUIRED. The following additional data may be required at the discretion of the Planning or Public works Official:

1. Any data required by OMC land development regulations.

2. Finished floor elevation related to curb, street, or other established grade or benchmark.
3. Drainage patterns. All lots shall show grading and drainage and finished grades or contours (clearly indicated).
4. The size and location of all existing and proposed public and private utilities, easements, or right of way.
5. The size, setback dimensions, and height of all proposed structures, and all existing structures to be retained on-site, and, the use of each structure. The locations may be indicated by construction site envelopes showing possible legal locations near the spot, building dimensions including height, and building separation.
6. Location, dimensions and names of adjacent streets and proposed internal streets, showing centerline radii and curb return radii.
7. The location and dimensions of existing and future sidewalks shall be shown.
8. The proposed layout of parking lots including the location and dimensions of parking spaces, curbed islands, internal planter strips, maneuvering aisles, and access driveways with indication of direction of travel.
9. The location of all signs, exterior lighting and fencing to be used to divide properties and to screen mechanical equipment and trash containers.
10. Existing physical features including drainage ways and structures with indication as to which are to be retained. Adjacent properties and their physical features within 50 feet of the property line shall be identified, including setback dimensions of adjacent structures.
11. The location of existing trees and scrubs and notation of which are to be retained on the property; location and dimensions of proposed landscaped areas; location and types of all proposed plant material and ground cover; location and type of irrigation systems; and, all other pertinent landscape features.
12. Location of all recreational amenities such as open play areas, swimming pools, tennis courts and recreational equipment.
13. Statement of maintenance responsibility for all improvements shown on the site plan.
14. Site data in tabular form including:
 - a. Total area of the property in square feet.

- b. Building coverage in square feet and percent total.
- c. Parking lot in square feet and percent total.
- d. Landscaped area in parking lot in square feet.
- e. All other landscaped areas in square feet.
- f. Number of parking spaces provided.
- g. Number of residential units if appropriate.
- h. Existing and proposed gross floor area in square feet.

10B-02-25 INCOMPLETE APPLICATION. If it is determined by the Planning Official that an application does not provide the required or necessary information the official shall so notify the applicant, in writing, within 10 days of the date of receipt of the application. The notice shall state at a minimum that the application is incomplete and the reasons for that determination. The notice shall also include the following statement: “The specified information must be submitted to the Planning Official within 30 days from the date of this letter; if the information is not received within the 30-day period, the matter may be processed “as is”. Consistent with State Law and the Ontario Municipal Code, the burden of proof is on the applicant; the applicant bears the sole responsibility to provide the needed information. Failure to provide the specified information will most likely result in denial of the request.” If the required material is not submitted, the Planning Official may proceed per the notice. The date that the application is considered complete and accepted shall be the date of the City’s receipt of the application fee.

10B-02-31 CONSOLIDATION. Whenever an applicant requests more than one type of approval, the proceedings shall be consolidated as set forth in ORS 227.175. Fees for the consolidated action shall be the sum of the individual fees listed for each constituent action.

10B-02-35 FINAL ACTION LIMITATION OF TIME. Final action on complete applications, shall be taken within 120 days in accord with the provisions and exceptions of ORS 227.178. The 120 day period may be extended for a reasonable period of time at the request of the applicant. [ORS 227.178 (4)]. If final action is not taken within 120 days after the application is deemed complete, the applicant may apply in Circuit Court for a "WRIT OF MANDAMUS" to get an issuance of approval [ORS 227.178 (7)]

10B-02-40 APPLICATION FEES. The following fees, required to partially defray costs incidental to the proceedings, shall be paid at the time of filing of the application and shall not be refundable, except that if on appeal, the appellant is successful at obtaining an amendment or reversal, then the appeal fee shall be returned. Fees by type of action are:

Appeals (Plus the cost of record transcription, which shall not exceed \$500.00)	\$150.00
Change of zoning map	\$280.00

Comprehensive Plan Change	\$440.00
Conditional use permit	\$150.00
Grading and excavation permit	\$25.00
Non-conforming use exception	\$100.00
Partition	\$330.00
Property Line Adjustments	\$35.00
Subdivision, final plat	\$160.00
Subdivision, tentative plan for a subdivision with 30 lots or less	\$440.00
Additional for each lot over 30	\$10.00
Temporary use permit	\$85.00
Annexation/Zone change	\$330.00
Hearings Body Variance	\$125.00
Variance, administrative	\$35.00

10B-02-45 PROCESSING COSTS. The application fee scheduled does not include costs incurred by the city in providing legal advertisements and mailing notices. Such costs shall be calculated by the Planning Official or his designate, and may be added to the base fee. The Planning Official may collect an average cost amount for common types of actions to be collected at the time of filing. Such payment shall be in lieu of detailed billing.

10B-02-50 LAND DEVELOPMENT INSPECTION FEE. A non-refundable land development inspection fee shall be submitted to the city in the amount of three percent of the estimated cost of required improvements with such estimate to be determined by the Public Works Director. The inspection fee shall be paid in full prior to commencement of any construction within property covered by tentative plans, final plans or maps.

10B-02-55 CHANGING FEES. The Council may amend the fee schedule as a non-land use legislative proceeding.

CHAPTER 10B-03 PUBLIC HEARING, NOTICE OF

10B-03-05 TIME AND PLACE OF HEARING. After receiving a completed application and the appropriate fees paid, the Planning Official shall determine if a public hearing is required. If such hearing is required, a time and place for such hearing on the proposed action shall be scheduled, and proper notice given as prescribed in this Chapter.

10B-03-10 INDIVIDUAL WRITTEN NOTICE BY MAIL. Except as otherwise provided herein, written notice of a land use hearing shall be mailed by first class mail to the following persons:

1. The applicant;
2. The subject property owner;
3. Owners of record, as shown on the most recent Malheur County property tax assessment roll, of property located within one hundred (100) feet of the property that is the subject of the notice, where any part of the subject property is within the City of Ontario urban growth boundary;
4. The owner of a public use airport if the airport is located within 10,000 feet of the subject property;
5. The tenants of any mobile home park when the application is for rezoning of all or any part of a mobile home park.
6. Affected agencies or community organizations as determined by the Planning Official.

10B-03-15 NOTICE CONTENT. Any required public notice relevant to this Title shall contain the following information as prescribed by ORS 197.763:

1. A clear and understandable description of the nature of the application including the proposed use or uses which could be authorized;
2. A statement of the applicable Code and/or Comprehensive plan decision criteria for the proposed use;
3. A clear and understandable description of the location of the property that is the subject of the application, including street address and the Township, Range and Tax lot number;
4. A statement setting forth the date, time, and location of the hearing;
5. A general explanation of the requirements for submission of testimony, including the deadline for submittal of comments, and an explanation of the manner in which comments may be submitted;
6. A statement that a failure of an issue to be raised 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 the Land Use Board of Appeals.

7. The name of the local government representative to contact, and the telephone number where additional information may be obtained;
8. A statement that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria, are available for inspection at no cost, and duplicate copies will be provided at reasonable cost;
9. A statement that a copy of the staff report (if one is prepared) will be available for inspection at least seven (7) days prior to the hearing at no cost, and duplicate copies will be provided at reasonable cost;
10. All mailed notices shall contain the following statement: NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

10B-03-20 METHOD OF NOTICE.

1. Notice of any public hearing shall be posted by all of the following methods:
 - a. By first class mail to those listed in section 10B-03-10 of this Title.
 - b. By publication in a newspaper of general local circulation at least ten (10) days prior to the hearing.
 - c. By Planning Staff posting a sign containing notice of the pending land use action on the subject property in such a position that it is visible from at least one adjacent public way.

10B-03-25 NOTICE IRREGULARITIES. Minor irregularities in the notice procedures, providing constructive notice as given, shall not invalidate any action taken under the provisions of this Title.

CHAPTER 10B-04 HEARING OFFICER PROCEDURE

10B-04-05 DESIGNATED HEARINGS OFFICER. The City Council shall appoint a Hearings Officer by resolution, for an indefinite term. Such appointment may be revoked by Council resolution at any time.

10B-04-10 DEFERRAL TO HEARINGS OFFICER OR PLANNING COMMISSION. The Planning Official or Hearings Officer may defer any matter to the Planning Commission. Such deferral shall be based upon a determination that one or more of the following situations exist:

1. The Official or Hearings Officer has an indirect or direct conflict of interest; or
2. The Official or Hearings Officer determines that he has prejudged the matter under consideration; or
3. The Official or Hearings Officer determines that the matter is, in his opinion, deserving of a public hearing; or
4. The workload of the Planning Department is such that it is more efficient for the applicant to be deferred to the Planning Commission.

The reason(s) for the deferral shall be part of the written record of the matter deferred.

10B-04-15 APPLICATION.

1. Prior to submitting any application for any building permit or land use action, the applicant shall complete at least one Preliminary Design Advisory Committee meeting with the City's Technical Review Committee; otherwise, no application shall be accepted by the City Public Works, Planning, or Building Officials unless this requirement is specifically waived in writing by the applicable named official.
2. An application for a Land Use Decision shall be on forms provided by the City and shall include all information specified by the Planning Official. If, upon receipt of application material the Official determines that the application is incomplete, the Official shall, within 10 days of receipt of the application, transmit to the applicant a written request for the needed information to the applicant. The written request shall include the Statement: "The specified information must be submitted to the Planning Official within 30 days from the date of this letter; if the information is not received within the 30-day period, the matter may be processed "as is". Consistent with State Law and the Ontario Municipal Code, the burden of proof is on the applicant; the applicant bears the sole responsibility to provide the needed information. Failure to provide the specified information will most likely result in denial of the request."

10B-04-20 REVIEW BY HEARINGS OFFICER. A complete application for a Land Use Decision under the Hearings Officer's jurisdiction shall be reviewed and all appeals at the local

level be complete within 120 days of the date the application is determined to be complete. Such determination of completeness shall be the date a receipt is issued by the City for the application fee. The Hearings Officer shall make every effort to issue a decision on the application within 30 days of receiving a complete application.

10B-04-25 DECISION The Hearings Officer Decision shall be a written decision which includes a statement of applicable decision criteria and/or standards relevant to the decision, and the findings of fact and conclusions relied upon as the justification for the decision.

10B-04-30 NOTICE OF DECISION. Notice of the Hearing Officer's decision shall be in writing and communicated via first class mail by the Planning Official to those specified in Section 10B-03-10 of this Code.

10B-04-35 CONTENTS OF NOTICE. The notice shall contain the following information:

1. A brief statement containing the reason for the notice, the nature of the application and the use or uses approved, and a brief explanation of the process for making a decision without a public hearing;
2. The date of the notice;
3. The City's application number or other designation;
4. The name of the applicant and property owner;
5. The street address or other geographical reference to the property at issue;
6. The applicable criteria used for the basis of the decision;
7. The statement: "AN APPEAL OF THIS DECISION BY THE HEARINGS OFFICER MUST BE TO THE CITY OF ONTARIO PLANNING COMMISSION. THOSE RECEIVING THIS NOTICE OF DECISION HAVE 12 DAYS FROM THE DATE OF THIS NOTICE TO APPEAL; AFTER 12 DAYS FROM THE DATE OF THIS NOTICE, IF NOT APPEALED, THE DECISION BECOMES FINAL AND IRREVOCABLE."
8. An explanation of the method and materials necessary to appeal the decision, including the fee for such appeal, as set forth in Section 10B-10-10 through 10B-10-60 of the OMC;
9. A statement indicating that the Decision, copies of all evidence relied upon by the Hearings Officer including the application file, are available for review, and that copies can be obtained at a reasonable cost; and
10. The name, address and phone number of a local government contact person knowledgeable of the action in question.

10B-04-40 FINAL DECISION. In the absence of an appeal the Hearing Officer's decision shall become the final decision of the City. No argument or further testimony will be taken by the City, and no appeal to any City decision making body shall be approved.

10B-04-45 APPEAL OF A HEARING OFFICER'S DECISION. A person may appeal a Hearings Officer decision provided that such appeal is filed within the guidelines of the appeal procedures as set forth in Section 10B-10-20 through 10B-10-45 of this Title.

CHAPTER 10B-05 HEARINGS, RULES OF PROCEDURE, COMMON TO ALL

10B-05-05 SCOPE. Conduct of all public hearings by the Commission or the Council pursuant to actions under this Title shall be governed by the procedural rules as provided herein.

1. Every person, agency, or entity entitled to notice of hearing pursuant to this Title, or other interested person, shall be entitled to be heard in accordance with the rules as herein established.
2. These rules shall be interpreted to promote justice. Technical violations which do not affect substantial rights, or substantially prejudice, parties, or the public, shall not interfere with the hearing of an action.

10B-05-10 GENERAL CONDUCT OF HEARING.

1. Each person appearing before the Commission or Council shall give his or her name and address in an audible tone of voice for the record.
2. No person shall speak without being recognized by the presiding officer.
3. The Commission or Council may set reasonable time limits for all testimony and presentations, and may exclude or limit cumulative, repetitious, or immaterial testimony.
4. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing; there shall be no swearing, yelling, cheering, clapping, display of signs or comments by any group or person. These behaviors may be recognized by the Chair and if recognized the Chair may request the presence of a City Police Officer to maintain order, including expelling the person or group responsible. The Chair may also suspend or continue the hearing. Such suspension or continuation of a hearing for such reason also suspends the 120-day rule for the time of the suspension or continuation; however, not twice. If the behavior is exhibited at the continued hearing and again recognized for the record by the Chair, the Chair may choose to request the presence of a City Police Officer to monitor the behavior of, and if needed, expel the person or group responsible.

10B-05-15 BURDEN, CRITERIA OF PROOF.

1. The proponent of proposals shall have the burden of proving the justification of the request. The greater the impact of the request on an area, the greater is the burden upon the proponent.
2. The requested proposal must be supported by proof that it conforms to all applicable standards and criteria of the OMC. The Planning Official may require that proponents submit written evidence, facts and/or written findings substantiating such conformance, as part of the application.

10B-05-20 ON SITE INSPECTION. Prior to the date set for the hearing, the Commission or Council may inspect the site; ex parte' contact is to be avoided. If ex parte contact occurs, the Commissioner(s) or Council Member(s) shall declare it at the start of the next hearing.

10B-05-25 ORDER OF PROCEDURE. The order of proceedings in hearings shall be as follows:

1. The Commission's or Council's presiding officer shall formally open the hearing, announce the nature and purpose of the hearing, and summarize the rules for the conduct of the hearing.
2. The presiding officer shall ask Commission or Council members for conflicts of interest, or occasions of ex parte contact. Any member of the decision making body having a conflict or ex parte contact shall state such. Any member having a direct conflict shall step down from the decision making, but may testify if so inclined. Any member having a potential conflict of interest may choose to remain as a decision maker. Any member having ex parte contact shall fully disclose such contact and may choose to remain as a decision maker.
3. The Chair shall ask the audience for objections of bias, of the jurisdiction of the decision makers and of procedure; if such objections are received the Chair shall conduct such further inquiry as the Chair chooses, but sufficient to define the situation and/or question(s). The Commission or Council may terminate the hearing if this inquiry results in substantial evidence that the Commission or Council lacks jurisdiction, or the procedural requirements of this Title have not been met. Any matters thus terminated shall, if the defect can be remedied, be rescheduled.
4. The Chair shall advise those at the hearing that they must raise issues, and address applicable Code/Comprehensive Plan decision criteria, with sufficient specificity to allow the decision maker to respond in order for the speaker to have standing and be able therefore to appeal the decision to the Oregon Land Use Board of Appeals.
5. The Planning Official or designee shall summarize the nature of the proposal, explaining graphic or pictorial displays which are part of the record, a summary of

the staff report, and a recital of the applicable criteria for making a decision as they appear in this Title, Oregon Revised Statute, or Oregon Administrative Rule; Conditions, Covenants and Restrictions shall not be legally binding on any decision and shall not be enforced by the City. All petitions, letters or other written comments relating to the matter that have been received by the city post-staff report date shall be introduced into the record at this time.

6. The applicant or proponent may appear on his or her own behalf, or by a representative.
7. If the applicant or his/her representative fails to appear at the hearing on his or her proposal, or upon the applicant's express waiver of presenting testimony and evidence, the Commission or Council shall consider the application itself and any materials submitted by staff, as presenting the applicant's case.
8. The Chair shall ask for other proponents of the request to testify, and all proponents shall be allowed to testify.
9. The Chair shall next ask for opponents of the request to testify, and all opponents shall be allowed to testify.
10. The Chair shall then allow the Commission or Council to submit any additional facts gathered from on-site inspection; entertain objections or comments thereon from the proponents and opponents, and make appropriate entries into the record.
11. The Chair shall next allow the applicant or his/her agent rebuttal testimony.
12. The Commission or Council shall next close the public portion of the hearing and deliberate the proposal.
13. The Commission or Council next shall reach a decision on the matter, postpone the matter to later in the meeting, or continue the matter to a date, time and place certain. Any of the afore-mentioned actions shall be determined by a vote of the majority of the Commissioners or Councilors. Any continuance shall conform to Oregon Revised Statute as regards the record of the matter.
14. Any land use decision of the Planning Commission or City Council shall be a written decision in the form of a Final Order including a statement of applicable decision criteria and/or standards relevant to the decision, findings of fact and conclusions, and any exhibits relied upon as the justification for the decision. The Commission or Council, in making their decision, may adopt any findings proposed by the proponent, opponent, or the staff as their own.

10B-05-30 JUDICIAL NOTICE.

1. The Hearing Officer, Planning Commission or City Council may take judicial notice of the following:
 - a. All facts and matters which are judicially noticeable in the courts of this state; and
 - b. The charter, ordinances, resolutions, rules, regulations, and official written policies of the city.
2. Matters judicially noticed need not be established by evidence, and may be considered by the Hearing Officer, Commission or Council in their determination.

10B-05-35 RECORD OF PROCEEDINGS.

1. The Commission or Council shall cause the proceedings to be recorded by stenographer or electronically. It shall not be necessary to transcribe testimony unless required for review, or unless the Commission or Council deems it necessary for the purpose of their decision. Any person may request a copy of the recording which will be provided at a reasonable cost; transcription of the recording shall be the responsibility of the requestor.
2. The Commission or Council shall, where practical, cause to be received all physical and documentary evidence presented which shall be marked to show the identity of the person offering the same, and whether presented on behalf of the proponent or opponent. Unless evidence is capable of being offered and incorporated in the record of the case, it shall not be received.
3. Any member of the public shall have access to the record of the proceedings at reasonable times, places, and circumstances as determined by the City. Any member of the public shall be entitled to copies of the record at a reasonable cost; however, no original records shall be released to the public. Copying of any records shall be performed by City Staff, or a contractor of the City's choice.

10B-05-40 EX PARTE CONTACTS.

To the extent practicable, the Commission, Council or Hearings Officer shall neither:

1. Communicate, directly or indirectly, with any party or their representatives in connection with any pending action before a review authority, except upon notice and opportunity for all parties to participate; nor,
2. Inspect the site with any party to a proposal unless all parties to the proposal are given an opportunity to be present. Staff may inspect the property with the applicant or opponents or both and may note such inspection in the staff report.

10B-05-50 CONTINUANCES.

1. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The local hearings authority shall grant such request by continuing the public hearing pursuant to paragraph (a) of this subsection or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (b) of this subsection.
 - a. If the hearings authority grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary 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.
 - b. If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record pursuant to subsection (7) of this section.
 - c. A continuance or extension granted pursuant to this section shall be subject to the limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179, unless the continuance or extension is requested or agreed to by the applicant.
 - d. Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in rebuttal of opposing testimony and evidence. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179.
7. When a local governing body, planning commission, hearings body or hearings officer reopens a record to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the matter at issue.

8. The failure of a party entitled to receive notice as provided in this section shall not invalidate such proceedings if the local government can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.
9. For purposes of this section:
 - a. "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by parties to a decision. "Argument" does not include facts.
 - b. "Evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by parties to a decision to be relevant to the decision.

CHAPTER 10B-10 APPEALS

10B-10-05 COUNCIL REVIEW OF RECOMMENDATIONS ON LEGISLATIVE ACTIONS AND ZONE CHANGES. The ultimate decision-making authority for legislative actions and zone changes brought under the provisions of this Title shall rest with the City Council. Certain actions of the Planning Commission are in the form of a recommendation to the City Council. The land use actions for which the Commission provides only a recommendation to the Council are amendments of the comprehensive plan and zoning ordinances or zoning map.

10B-10-10 FINAL ACTION, HEARINGS OFFICER, COMMISSION, COUNCIL, APPEALABLE. Unless otherwise provided for in this Chapter, where final decision authority is granted by this Title to the Hearings Officer, Planning Commission or City Council, that decision shall be the final action of the City unless an appeal is received pursuant to this Chapter.

10B-10-15 TIME LIMIT ON APPEAL.

1. Written notice of appeal of Hearings Officer and Planning Commission Decisions as required by this ordinance must be filed with the Planning Director no later than twelve (12) days from the date written notice of the decision is mailed.
2. Appeal of a City Council Decision shall be to the Oregon Land Use Board of Appeals (LUBA) in accordance with the guidelines in ORS 197.830, and must be filed with LUBA no later than 21 days from the date the decision was final, which is the date the decision was reduced to writing.

10B-10-20 APPEAL, STANDING. Any party to a decision may appeal that decision provided that such appeal is filed within the guidelines of the appeal procedures in this Chapter. In order to have standing and be considered a party to a decision rendered by a decision maker authorized herein, written or oral testimony must have been provided in compliance with the requirements of this ordinance.

10B-10-25 APPEAL PROCEDURE. After written notice of appeal of a Hearings Officer or Planning Commission Decision has been filed, a hearing date will be scheduled at which time the decision-maker authorized by this ordinance will consider the appeal. Appeal hearings at the Planning Commission and City Council shall be "de novo", or new, hearings, and submittal of new evidence and testimony shall be allowed. An appeal resulting from Hearings Officer Decision shall be to the Planning Commission; an appeal resulting from a Planning Commission decision shall be to the City Council; an appeal of a City Council decision shall be made to the Oregon Land Use Board of Appeals in accordance with ORS 197.830 and is a record review, not a "de novo" hearing. An issue which may be the basis for an appeal to the Land Use Board of Appeals, shall be raised no later than the close of the record at or following the final evidentiary hearing on the proposal before the local government.

Except for appeals from the decision of the Hearing Officer, Appellants must have appeared in person, by agent or in writing before the review authority, and have objected to the decision, raising issues with sufficient specificity so as to afford the Planning Commission, City Council or the parties an adequate opportunity to respond to each issue, as set forth in this Chapter, for the application being considered. The City Manager may have standing on any matter based on objections by any City Department Head who registered a proper objection at the hearing.

10B-10-30 NOTICE OF APPEAL TO PLANNING COMMISSION AND/OR CITY COUNCIL.: The notice of appeal shall be filed with the Planning Director in writing and shall include the following:

1. The Action number of the Final Order for which review by higher authority is sought.
2. If not submitted by the applicant, a statement of the interest of the appellant, to determine the appellant's standing as a party to the action.
3. The appellant's name, address and phone number.
4. Payment of fees for an appeal as provided for in this Title.

10B-10-35 APPEAL TO PLANNING COMMISSION. The Planning Commission shall hear all appeals of Hearings Officer decisions in a de novo public hearing. The hearing before the Commission shall be noticed in the same manner as for all public hearings, and the Appellant shall be present at the hearing, either in person or through an authorized representative. The Planning Commission may consider the record of the Hearings Officer's action, but shall not base their decision solely on that decision.

10B-10-40 TIME LIMIT FOR APPEAL CONSIDERATION. The Commission shall consider an appeal at the earliest possible opportunity given notice requirements and Planning Department workload.

10B-10-45 DECISION OF PLANNING COMMISSION ON APPEAL

1. Upon review of an appeal, the Commission may affirm, reverse, or modify, in whole or in part, the decision and findings of the lower review authority and may add findings.
2. The Commission's action on a Hearing Officer's decision is itself appealable to the City Council. The presiding officer at the hearing shall advise those appearing for either side, that to have standing to appeal a Planning Commission decision to the City Council, they must address issues with "sufficient specificity" that will allow the decision maker and all present to respond to the issue.
3. Upon written request to the Planning Director, any person may have a copy of the hearing tapes and have a transcript of a hearing prepared; if the City is requested to provide the transcription, the full cost of that transcription shall be paid by the person requesting the transcription.

10B-10-50 APPEAL TO CITY COUNCIL. The City Council shall hear all appeals of Planning Commission decisions in a de novo public hearing. The hearing before the Council shall be noticed in the same manner as for all public hearings. The Council may consider the record of the Planning Commission's action, but shall not use the Planning Commission decision as the sole basis for their decision.

10B-10-55 TIME LIMIT FOR APPEAL CONSIDERATION. The Council shall consider an appeal at the earliest possible opportunity given notice requirements and Planning Department workload.

10B-10-60 DECISION OF CITY COUNCIL ON APPEAL

1. Upon review of an appeal, the Council may affirm, reverse, or modify, in whole or in part, the decision and findings of the lower review authority and may add findings.
2. The Council's action on a Planning Commission decision is appealable only to the Oregon Land Use Board of Appeals (LUBA), and only in the manner prescribed by ORS 197.830. The presiding officer at the hearing shall advise those appearing for either side, that to have standing to appeal a City Council decision to LUBA, they must address issues with "sufficient specificity" to enable the decision maker and all present to respond to the issue.

CHAPTER 10B-52 PROPERTY LINE ADJUSTMENT

10B-52-05 PURPOSE AND AUTHORITY. Property line adjustments (boundary adjustments) are defined consistent with ORS 92.010 (11) as “the relocation or elimination of a common property line between abutting properties. A request for a property line adjustment requires a land use decision. The Planning Official is authorized to approve property line adjustments when all of the necessary requirements listed in this Section have been met.

Approval, conditional approval or denial of an application for property line adjustment by the Planning Official shall be the final action of the City, unless the action is appealed to the Planning Commission as provided in this Title.

10B-52-10 INITIATION OF ACTION. A request for a Property line adjustment shall be made in the form of an application to the Planning Official; the application shall include the following:

1. A map showing the properties before the adjustment; the map shall clearly show the locations of all structures on the properties, and the distance of those structures from existing property lines and from each other.
2. A map showing the properties after the adjustment; the map shall clearly show the locations of all structures on the properties, and the distance of those structures from existing and adjusted property lines and from each other.
3. A copy of the proposed property line adjustment deed that will be recorded to accomplish the property line adjustment. This deed shall contain language substantially the same as the following:

This instrument is executed to accomplish a property line adjustment between Parcel #1, the Grantee Parcel, more fully described in Exhibit “A”, and Parcel #2, the Grantor Parcel, more fully described in Exhibit “A”. The purpose of this adjustment is to enlarge Parcel #1 and reduce Parcel #2 by the sale of the property described in Exhibit “B”. No new parcel shall be created by the execution of this instrument. The post adjustment size and configuration of Parcel #1 and Parcel #2 shall be as described in Exhibit “C”.

4. Exhibit “A” as required by (1) above, shall be the descriptions of Parcels #1 & #2 prior to any property line adjustment as taken from the most recent deeds for the Parcels.
5. Exhibit “B” as required by (1) above shall be the description of only the adjusted portion of land, that given to Parcel #1 by Parcel #2.
6. Exhibit “C” as required by (1) above shall be the post-adjustment descriptions of Parcels #1 & #2.

7. Copies of the most recent existing deed for the subject properties prior to the adjustment; and, a copy of the new deeds for the subject properties post-adjustment; and, a copy of the new deed for the portion being conveyed from Parcel #2 to Parcel #1.
8. An application form signed by both property owners; if the applicant is not the property owner(s), both property owners shall sign an authorization for the applicant to act as agent for the property owners.
9. The appropriate application fee.
10. Any additional information required by the Planning Official; the applicant may include any additional information he feels appropriate.

10B-52-15 PROCESS. Upon receipt of the application for a property line adjustment the Planning Official shall follow the procedure set forth in Section 10B-04 for a Hearings Officer Decision.

10B-52-20 DECISION CRITERIA. The following criteria shall be the basis for a decision on an application for a property line adjustment:

1. No property line adjustment shall be allowed when the property lines thus adjusted would result in either property being split zoned.
2. A property line adjustment shall not be approved if the proposed adjusted line will encroach upon the required yard space of any existing structure(s) or uses such as required parking or landscaping areas.
3. A property line adjustment shall not be approved if any parcel is reduced below the minimum size required by the Zone.

10B-52-25 FINAL APPROVAL; RECORDING. After the appeal period required by Section 10B-04-35 (7) of this Title has passed with no appeal, the Hearings Officer's decision is Final, and the following requirements must be met.

1. Hearings Officer approval of a property line adjustment is a final approval and is valid for a period of one year from the end of the appeal period required by Section 10B-04-35 (7) of this Title, unless an extension is requested and approved by the City; however, the actual property line adjustment is not final until the actions required below are accomplished.

A request for extension of the approval period must be made in writing to the Planning Official, is not a land use decision, and may be approved ministerially by the Official for a period of no more than one year. Only one extension may be granted. The following actions must be accomplished within the initial, or extended, approval period in order for the approved property line adjustment to be final:

- a. A property line adjustment deed shall be submitted to the Planning Official for approval; once approved, the deed shall be filed with the County Clerk within forty five (45) days from the date of that approval. Evidence of such filing shall be returned to the city within seven (7) days from the date of recordation. The deed shall include language substantially the same as the following:

This instrument is executed to accomplish a property line adjustment between Parcel #1, the Grantee Parcel, more fully described in Exhibit "A", and Parcel #2, the Grantor Parcel, more fully described in Exhibit "A". The purpose of this adjustment is to enlarge Parcel #1 and reduce Parcel #2 by the sale of the property described in Exhibit "B". No new parcel shall be created by the execution of this instrument. The post adjustment size and configuration of Parcel #1 and Parcel #2 shall be as described in Exhibit "C".

- i) Exhibit "A" as required by (1) above, shall be the descriptions of Parcels #1 & #2 prior to any property line adjustment as taken from the most recent deeds for the Parcels.
- ii) Exhibit "B" as required by (1) above shall be the description of only the adjusted portion of land, that given to Parcel #1 by Parcel #2.
- iii) Exhibit "C" as required by (1) above shall be the post-adjustment descriptions of Parcels #1 & #2.
- b. A record of survey shall be filed with the County Surveyor and County Clerk within one year of the date of final approval.

CHAPTER 10B-55 PARTITIONS AND SUBDIVISIONS

10B-55-05 PURPOSE AND AUTHORITY. Partitions and subdivisions are Land Divisions, defined herein and by ORS 92.010. Statute authorizes local governments to adopt standards for constructing partitions and subdivisions, and procedures for processing applications as well as criteria to consider for approval. Applications for approval of partitions and subdivisions shall be handled as Quasi-judicial and Administrative Actions under the provisions of this Title for such actions. Tentative plans and final plats for partitions and subdivisions shall be reviewed by the Technical Review Committee (TRC) as provided for by Chapter 10B-56.

10B-55-10 INITIATION OF ACTION. The person or authorized agent requesting the partition or subdivision shall file a written application, including the appropriate fees, which shall be paid in accordance with the provisions of this Title. As prescribed by ORS 92.040, each application shall include a tentative plan showing the general design of the proposed subdivision or partition. In addition to information required for partition or subdivision applications, the Planning Official may require the submission of all or part of the information required for land use actions of this Title if such information is needed to properly process the tentative plan of a partition or subdivision. The Planning Official may waive requirements deemed unnecessary for tentative plans for subdivisions or partitions; e.g. – contour lines on a flat or level parcel. To the greatest extent possible, the land use action or actions necessary for the approval of a partition or subdivision shall be processed simultaneously with the land division application, but in all cases the land use actions shall be complete, including appeals, prior to recording the final plat.

10B-55-15 LAND DIVISION APPLICATION PROCEDURE; AUTHORITY. An application for tentative approval of a partition or subdivision shall be processed as a Hearings Officer Decision. The Hearings Officer shall give notice of the action in accordance with Chapter 10B-03 (Notice of Public Hearing) of this title, except that the Notice shall be for an administrative action and shall specify the date of the administrative decision; that date shall be not less than 20 days after the date of the notice to provide opportunity for comment. If, in the opinion of the Planning Official, there is a need for a public hearing on the request, the Planning Official may refer the application to the Planning Commission who will make the decision at a public hearing after giving the appropriate public notice.

10B-55-20 FINDINGS, DECISION CRITERIA. The decision maker shall consider the following, as applicable, at a minimum:

1. The design complies with the design standards set forth in Section 10C of this Title, or the proper variances have been approved.
2. All proposed lots or parcels are at or above the minimum size required by the Zone.
3. The design allows preservation of solar energy access to the maximum number of lots;

4. The design ensures safety from fire, flood, slides, pollution or other dangers to the maximum extent possible;

10B-55-25 NOTIFICATION OF ACTION. Notice of the decision of the Hearings Officer shall be provided to all persons who are parties to the proceeding, the applicant, agent and property owner. The notice provided shall include any conditions of approval.

10B-55-30 INTERIM ACTION. Upon Tentative plat approval the applicant/property owner shall submit construction drawings as required to the Planning or Public Works Official for any construction. The applicant property owner shall also submit the following cost estimate and surety:

1. An estimate by a Registered Professional Engineer of the cost for all work, improvements and repairs to City facilities associated with the proposed development that are necessary for approval of a Final Plat, including but not limited to, surveying, engineering, streets, utilities, grading, storm drainage systems, irrigation systems, relocation or improvement of watercourses, work necessary for compliance with floodplain requirements, purchasing easements, etc. The public works director must approve the cost estimate.
2. An improvement guarantee which shall be executed and filed with the city manager in the form of an agreement between the developer and the City, specifying the period within which required work, improvements and repairs shall be completed, and providing that, if that work is not completed within the period specified, the city may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the land developer. The developer shall provide with the agreement to complete the work, repairs and improvements, to assure his or her full and faithful performance thereof, one of the following:
 - a. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the city attorney.
 - b. Cash or marketable securities acceptable to the city.
3. Assurance of full and faithful performance shall be for a sum determined by the public works director as sufficient to cover the cost of work, improvements and repairs, including engineering and incidental expenses.
4. If the land developer fails to carry out provisions of the agreement, and the city has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds costs and expenses incurred by the City, it shall release the remainder. If the amount of the bond or cash deposit is less than the cost and expense incurred by the City, the land developer shall be liable to the City for the difference.

Once approved by the Public Works Official or his designee, construction may commence. The applicant/property owner shall remain in constant communication with the Planning and Public Works Officials regarding progress; the Planning Official shall communicate with affected City Departments on an as-needed basis. If any construction is determined to be inconsistent with the approval, the Planning Official may place the project on hold upon written notification of the applicant/property owner, until such time as the issues can be resolved. The Planning Official has the discretionary authority to determine if any proposed changes to the plat or plan are minor or major; minor changes may be approved by the Planning Official after consultation with the Director of Public Works, major changes require a new application for tentative approval by the Hearings Officer or Commission, as applicable, consistent with the procedure contained in above sections for new applications. The difference between minor and major changes are thus;

1. Reductions in the number of lots or parcels are not major changes; impacts have been determined based on a maximum number, and a reduction in impacts need not be reexamined.
2. An increase in the number of lots or parcels greater than 10% of the approved number is a major change. Notwithstanding the preceding; any increase of 5 or more lots or parcels is a major change.
3. Any change in the location, number or function of streets or roads within a partition or subdivision is a major change, except that a change in location of less than 10', that does not violate Access Management standards, or other transportation system-related regulations, is not a major change.
4. Any change in the approved proposal that requires an additional land use decision is a major change.

10B-55-35 TIME LIMIT ON TENTATIVE APPROVAL; SUBMISSION OF FINAL PLAT. Within one year after approval of the tentative plat and plan, the applicant shall cause the land division to be constructed, surveyed, and finalized according to Section 10B-55-30 of this chapter, and a Final Plat prepared to the specifications of this Title. The applicant shall submit the original drawing on a medium in accordance with ORS Chapter 92, and supplemental exhibits as required by the City, to the Planning Official for review and approval. A one-year extension of a tentative approval may be obtained by application prior to expiration of the tentative approval to the Planning Official, and shall not be considered a land use decision; no more than three extensions may be granted.

10B-55-40 TECHNICAL REVIEW OF FINAL PLAT. Upon receipt of a Final Plat the Technical Review Committee shall examine it and any accompanying documents to determine if the land division has been constructed and the plat prepared in substantial compliance with the approved tentative plan. Approval of the plat by the TRC must be in writing on a form provided by the City; such form shall be included in the record of the application.

The Public Works Director may direct field checks if he deems them advisable to verify that the plat is sufficiently correct on the ground.

If the Public Works Director finds that full conformity has not been achieved, he shall advise the Planning Official, applicant and applicant's engineer or surveyor, of changes or additions required and shall afford the applicant an opportunity to make changes or additions. The Final Plat shall not be approved until conformity has been achieved.

10B-55-45 APPROVAL OF THE FINAL PLAT.

1. Final plat approval for a land division not involving the creation of streets shall be an administrative action by the Planning Official with no notice given. If the Technical Review Committee determines that the final plat and all required exhibits are in conformity with the standards of the land use decision, including all conditions of approval, the Planning Official shall sign the plat and advise the Mayor, who shall also sign. The installation of improvements may be delayed under bond or other financing guarantee specified in the land division regulations.
2. Final plat approval for a land division involving the creation of streets shall be by action of the City Council at a public hearing; notice of the hearing shall be given at least 20 days prior to the hearing to the applicant, agent, and to any parties to the Administrative Decision approving the tentative plat. If the Technical Review Committee determines that the final plat and all required exhibits are in conformity with the standards of the land use decision, including all conditions of approval, the Council shall approve the plat by motion, and the Planning Official and Mayor shall sign the plat. The installation of improvements may be delayed under bond or other financing guarantee specified in the land division regulations.

10B-55-50 DEDICATION OF STREETS, ACCEPTANCE. Except for manufactured home subdivisions, manufactured home parks and RV parks, all streets, alleys and easements shown on the plat shall be expressly dedicated to the public and acceptance of the final plat by the city shall constitute acceptance of such platted streets, alleys and easements.

10B-55-55 FILING OF PLAT. Within sixty (60) days of the signing of the plat by the Mayor, the applicant shall record the plat and associated exhibits with the Malheur County Recorder.

10B-55-60 FAILURE TO TIMELY RECORD. If the applicant does not record the plat and associated exhibits with the Malheur County Recorder within 60 days, all of the City approvals shall be null and void, and the planning official shall advise the County Recorder that the plat is not approved for recording.

10B-55-65 PRIVATE STREETS. Private streets may be created for Manufactured Home Subdivisions, Manufactured Home Parks, or RV Parks, and shall adhere to the following requirements:

1. Document accompanying a plat containing a private street, or a development plan for an RV or Manufactured Home Park, shall include a fully organized home-owner's association with powers and financial capability to maintain such private street. This

document must be recorded and a copy of the recorded document provided to the City prior to any construction.

2. Any private street shall conform with, and be constructed to, City standards as exist at the time of approval of the proposed development.

10B-55-70 PUBLIC STREET OUTSIDE LAND DEVELOPMENT. A public street may be created within the City Limits by deed to the City, if the deed is accepted by the City. The establishment of such street may be initiated by the City, County or State if declared essential for the purpose of general traffic circulation. The completion of any required street improvements shall be provided for in the proceedings leading to the acceptance of the street. Additional building sites created by the establishment of a deeded street shall be processed as a partition or subdivision.

10B-55-75 ACCEPTANCE OF A DEEDED STREET, PROCEDURE. An action for accepting a deeded street shall be initiated by the applicant as an application to the Council; the Council shall consider the request at a public hearing and may, by motion, accept or deny the action to accept the deed. If the council decision is to accept the deed, the Council shall accept the deed by ordinance as provided for in the City charter.

CHAPTER 10B-56 REVIEW COMMITTEE

10B-56-01 TECHNICAL REVIEW COMMITTEE.

1. Establishment. The Technical Review Committee (TRC) is established to act in a technical review capacity for the City of Ontario and is authorized to perform such functions as provided for in this ordinance. The TRC shall consist of the following members or their duly authorized representatives.
 - a) Director - City Planning Department.
 - b) Director – County Planning Department
 - c) Director - Public Works, who shall serve as Chairman.
 - d) Manager - Technical Services.
 - e) Designated Surveyor (City or County).
 - f) Ontario City Building Official.
 - g) Ontario City Fire Chief.
 - h) Ontario City Police Chief

2. Applications for any land division trigger automatic review by the TRC; the review must be deemed complete prior to acceptance of the application as a complete application by the City. The TRC shall have the responsibility to examine all Tentative (Preliminary), and Final, Partition and Subdivision plats and plans, and assist the Planning Director/Decision Maker as regards the approval, conditional approval or disapproval of said requests.
3. In the case of a variance or conditional use request necessary for the development proposed in the Land Division application, the TRC shall provide a recommendation to the Planning Director.
4. The TRC may be utilized as the Preliminary Design Advisory Committee.

CHAPTER 10C-01 LAND DIVISIONS

10C-01-01 PURPOSE AND AUTHORITY. The regulations in this chapter set forth the standards for partition and subdivision plan and plat preparation, and shall be used in conjunction with the administrative procedures for subdivisions and partitions as found in Subtitle 10B.

10C-01-03 AMENDMENT OF PARTITION OR SUBDIVISION. Any plat of a partition or subdivision filed and recorded under the provisions of ORS 92.010 to 92.190 may be amended pursuant to ORS 92.170 and the requirements of this Code.

10C-01-04 PARTITION AND SUBDIVISION REPLATTING. The act of replatting shall allow the reconfiguration of recorded partitions and subdivisions pursuant to ORS 92 and the requirements of this Code. A replat shall be processed in accordance with Subtitle 10B and this section.

10C-01-05 INFORMATION REQUIRED WITH THE TENTATIVE PLAN. The following information shall be shown on the tentative plan or accompanying material for a subdivision or partition as deemed applicable by the Planning Official, who may approve the deletion of any item deemed unnecessary.

- A. For Subdivisions, the proposed name of the new Subdivision; this name shall not duplicate nor closely resemble the name of any other existing or proposed land development in Malheur County and shall be approved by the planning official.
- B. Date, north-point, and scale of drawing.
- C. Appropriate identification of the drawing as a tentative plan.
- D. A vicinity map showing the location of the land development; this map shall be sufficient to define its location and boundaries within the City.
- E. A legal description of the subject property and of the tract boundaries.
- F. The location and names of adjacent property owners, together with the Assessor's map number of those properties, and the names of any existing subdivisions, shown along the border of the subject property.
- G. Names, addresses, telephone numbers of the owner, developer, engineer and surveyor.
- H. Contour lines related to some established benchmark or other datum approved by the director of public works and having minimum intervals as follows:
 - 1. For slopes of less than 5%: Show the direction of the slope by means of arrows or other suitable symbol together with not less than 4 spot elevations per acre, evenly distributed.
 - 2. For slopes of 5% to 15%: 5 feet.
 - 3. For slopes of 15% to 20%: 10 feet.

4. For slopes of over 20%: 20 feet.
 - I. The location and direction of watercourses including all irrigation and drain ditches and the location of the 100-year flood zone.
 - J. The location of any existing or suspected wetlands.
 - K. The location and use of existing structures to remain on the property after platting.
 - L. The location, widths, and names of both opened, and unopened streets within or adjacent to the tract, together with easements and other important features such as section lines, section corners, city boundary lines, and monuments.
 - M. The location, width, names, approximate grades and radii of curves of proposed streets. The relationship of streets to projected streets shown on any development plan or, if no complete development plan is in effect in the area, as determined by the public works director to assure adequate traffic circulation.
 - N. The location, width, and purpose of proposed easements.
 - O. The location and approximate dimensions of proposed lots and the proposed lot and block numbers.
 - P. The location within the land development, and in the adjoining streets and properties, of existing sewers, water mains, culverts, and drain or irrigation pipes and ditches that are near the boundary of the subject property.
 - T. Approximate centerline profiles, with extensions for a reasonable distance beyond the limits of the proposed land development, showing the finished grade of streets and the nature and extent of street construction.
 - U. A plan for domestic water supply lines and related water service facilities.
 - V. A plan for sewage disposal and related service facilities.
 - W. A plan for storm water drainage and flood control, including profiles of proposed drainage ways.
 - X. A complete grading plan showing pre and post development grading; cuts and fills and information on the character of the soil.
 - Y. A plan for other improvements such as electricity, gas, telephone lines, and sidewalks.

10C-01-10 INFORMATION REQUIRED WITH THE FINAL PLAT. In addition to that information required for the tentative plan, that information specified by law (ORS Chapter 92), and the following information as deemed applicable by the Planning Official, shall be shown and provided on the final plat and/or accompanying material as appropriate:

- A. Reference points of existing surveys identified, related to the plat by distance and bearings, and referenced to a field book or map as follows:

1. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the land development.
 2. Adjoining corners of adjoining land developments or parcels.
 3. Other monuments found or established in making the survey of the land development that are required to be installed by the provisions of this Title.
- B. The exact location and width of streets and easements intercepting the boundary of the land development.
- C. Tract, block, and lot boundary lines and street right-of-way and center lines, with dimensions, bearings, radii, arcs, points of curvature, tangent bearings and normal high water lines for any creek or other body of water. Dimensions and distances shall be shown to the nearest one-hundredth of a foot (0.01 feet). No ditto marks shall be used. Bearings shall be shown to nearest one second of arc.
- D. The width of the portion of streets being dedicated and width of existing right of way. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central and angle shall be indicated.
- E. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded references. If an easement is not definitely located of record, a statement of the easement shall be given. The width of the easement, its length and bearing and sufficient ties to locate the easement with respect to the land development shall be shown. If the easement is being dedicated by the plat, it shall be properly referenced in the owner's certificates of dedication.
- F. Lot numbers beginning with the number "1" and numbered consecutively in each block.
- G. Block numbers beginning with the "1" and continuing consecutively without omission or duplication throughout the land development. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure. Block numbers in an addition to a land development of the same name shall be a continuation of the numbering in the original land development.
- H. Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots intended for sale.
- I. Street names (numbers) using the adopted numbering grid.
- J. The following certificates which may be combined where appropriate, or provided in the form of statements and signatures on the Final Plat:
1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat.

2. A certificate signed and acknowledged as above, dedicating all land intended for public use except land which is intended for exclusive use of the lot owners in the land development, their licensees, visitors, tenants, and servants.
 3. A certificate with the seal of, and signed by, the surveyor responsible for the survey and final map.
 4. A certificate for the Planning Official's signature.
 5. Other certificates now or hereafter required by law.
- K. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary, their interest in the premises and the liens on the land.
- L. Sheets and drawings showing the following:
1. Traverse data including the coordinates of the boundary of the land development and ties to section corners and donation land claim corners, and showing the error of closure, if any.
 2. The computation of distances, angles, and courses shown on the plat.
 3. Ties to existing monuments, proposed monuments, adjacent land developments, street corners, and state highway stationing.
 4. A copy of any dedication requiring separate documents.
 5. A list of all taxes and assessments on the subject property which have become a lien on the tract.
 6. A certificate for the signature of the city surveyor that the final plat meets all engineering and site improvement criteria set forth in this Title.
- M. A warranty bond guaranteeing the proper construction and function of all improvements for a period of not less than two years.

CHAPTER 10C-15 DESIGN STANDARDS. A land development, whether by a subdivision, creation of a street, or partition, shall conform to the design and site standards established by this Title and applicable sections of the Ontario Municipal Code.

10C-15-05 EASEMENTS. Easements for sewers, water mains, or other public utilities shall be dedicated wherever necessary. The easements shall be an acceptable width as determined by the Public Works Official and the OMC, and centered on lot or parcel lines, except for utility pole tie-back easements which may be reduced to six feet in width.

10C-15-10 WATERCOURSES. If land development is traversed by a watercourse such as a drainage way, channel or stream, there shall be provided a storm water easement or drainage right of way conforming substantially with lines of the watercourse, and such further width as

will be adequate for the purpose. Streets or parkways parallel to the major watercourses may be required.

10C-15-15 BUILDING SITES. The size, width, shape and orientation of building sites shall be consistent with the requirements of the OMC for the Zone and for the type of use contemplated with the following exceptions:

1. In areas that will not be served by the public sewer, minimum lot and parcel sizes shall permit compliance with the requirements of the Oregon department of environmental quality, and shall take into consideration problems of sewage disposal, particularly problems of soil structure and water table as related to sewage disposal by septic tank

10C-15-16 ACCESS. Each lot and parcel shall abut upon a street other than an alley for a width of at least 50 feet unless a variance is approved. Application for any needed variances or conditional uses needed for the development proposed in the land division must be made and considered concurrent with the land division application.

10C-15-17 THROUGH LOTS AND PARCELS. Through lots and parcels shall be avoided except where they are essential to provide separation of residential development traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages to topography and orientation. A planting screen easement of at least ten feet wide and across which there shall be no right of access may be required along the lines of building sites abutting such a traffic artery or other incompatible use.

10C-15-18 LOT AND PARCEL SIDE LINES. The lines of lots and parcels, as far as is practical, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial on the curve.

10C-15-20 GRADING OF BUILDING SITES. Grading of building sites in a land development shall comply with the provisions of this Subtitle relating to excavation and grading.

10C-15-25 LAND FOR PUBLIC PURPOSES. If the city has an interest in acquiring a portion of a proposed land development for a public purpose, or if the city has been advised of such interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the Hearings Officer may require that those portions of the land development be reserved for public acquisition, for a period not to exceed four months, at a cost not to exceed the value of the land after completion of the needed public improvement.

CHAPTER 10C-20 STANDARDS AND PROCEDURES FOR IMPROVEMENT

10C-20-05 PROCEDURES. In addition to other requirements, improvements installed by a land developer, either as a requirement of this Title, or at his or her own option, shall conform to the requirements of this Title, and the improvement standards and specifications otherwise adopted in the city code, and shall be installed in accordance with the following procedure:

- A. Improvement work shall not commence until plans have been checked for adequacy and approved by the city. To the extent deemed necessary by the City, plans may be required for evaluation of the proposal; plans may be required prior to approval of the tentative plan of a subdivision or partition, but are required

after tentative approval and during the construction phase, consistent with Section 10B-55-30 of this Code.

- B. Improvements shall be constructed under the inspection of and to the satisfaction of the public works director. The city may require change in typical sections and details in the public interest if unusual conditions arise during construction to warrant such changes. A determination of, and action on, minor or major changes shall proceed consistent with Section 10B-55-30 of this Code.
- D. Underground utilities, sanitary sewers and storm drains installed in streets 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 map showing public improvements as built shall be filed with the technical services department upon creation of the improvements, consistent with Section 10B-55-30 of this Code.

10C-20-10 SPECIFICATIONS FOR IMPROVEMENTS. Improvements shall be designed and constructed in accordance with detailed specifications contained in Title 8 and Section 10C-25 of the Ontario City Code.

10C-20-15 REQUIRED IMPROVEMENTS IN SUBDIVISIONS. Improvements specified in this chapter shall be installed at the expense of the developer consistent with the requirements of this Code, prior to Final Plat Approval, unless surety or some other arrangement consistent with the requirements of this Code, are provided.

10C-20-20 STREETS. Public streets, including alleys, within the land development, and public streets adjacent to the land development, shall be improved to appropriate design standards as contained in Title 8, and Section 10C-25 of this title, and specifically the following:

- A. Any street within or on the perimeter of the land development shall be improved to the proper standard.
- B. Catch basins shall be installed or connected to drainage tile leading to storm sewers or drainage ways.
- C. Upon completion of the street improvement, monuments shall be reestablished at every public street intersection, and all points curvature, and points of tangency of their center lines.
- D. Underground utilities, sanitary sewers and storm drains installed in streets 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 map showing public improvements as built shall be filed with the Public Works department upon creation of the improvements.

10C-20-25 DRAINAGE AND STORM SEWER SYSTEM. Drainage facilities shall be provided within the subdivision, and to connect the subdivision drainage to drainage ways or storm sewers outside the subdivision, as required by the Public Works Director. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision, and to allow extension of the system to serve such areas.

10C-20-30 SANITARY SEWERS. Sanitary sewer facilities serving each building site in the subdivision and connecting the subdivision to city mains shall be installed. The design shall take into account provisions for extension beyond the subdivision and to adequately grid the city system. If required sewer mains will directly serve property outside the subdivision or partition, the city may enter into an agreement with the developer setting forth methods of reimbursement for the proportionate share of the cost for each connection made to the sewer mains by property owners outside the subdivision or partition for a period of ten years from the time of installation of the mains.

10C-20-35 WATER SYSTEM. Water lines and fire hydrants serving each building site in the subdivision and connecting the subdivision to city mains shall be installed. The design shall take into account provisions for extension beyond the subdivision and to adequately grid the city system. If required water mains will directly serve property outside the subdivision or partition, the city may enter into an agreement with the developer setting forth methods of reimbursement for the proportionate share of the cost for each connection made to the water mains by property owners outside the subdivision or partition for a period of ten years from the time of installation of the mains.

10C-20-40 SIDEWALKS. Sidewalks shall be installed in accordance with all provisions of the city code.

10C-20-45 STREET NAME SIGNS. Street name signs shall be installed at all intersections according to city standards, or a deposit made with the city in an amount equal to the cost of the installation, and the installation shall be made by the city.

10C-20-50 STREET LIGHTS. All street light poles within the subdivision or development shall be installed at the developer's expense and shall be served from an underground source of supply.

10C-20-55 IRRIGATION AND DRAINAGE DITCHES. All the irrigation and drainage ditches on or abutting the property shall be placed underground. The size and design of the underground conveyance shall be approved by the irrigation or drainage agency with jurisdiction over the facility.

10C-20-60 FRANCHISED 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 communications, street lighting and cable television shall be placed underground.

10C-20-65 CURB CUTS. Curb cuts and driveway installation are not required of the developer, but if installed, shall be according to City standards. Curb face outlets for stormwater drains may also be provided.

10C-20-70 SYSTEMS DEVELOPMENT CHARGE. The developer shall be subject to applicable provisions of the systems development charges established in the city code.

10C-20-75 REQUIRED IMPROVEMENTS IN PARTITIONS. The same improvements shall be installed to serve each building site of a partition as is required of a subdivision. However, if the Hearings Officer finds that the nature of development in the vicinity of the partition makes installation of some improvements unreasonable, the Hearings Officer may recommend a variance to except the installation of those improvements. In lieu of excepting an improvement, the Hearings Officer may require the improvement be installed in the area under special assessment financing, or other facility extension policies of the city.

10C-20-80 ACCEPTANCE OF IMPROVEMENTS BEFORE SERVICE OR OCCUPANCY. Until all improvements are installed in a development and approved by the public works director, no property within the development shall be entitled to service of any public utilities. All improvements as approved shall be completed before any occupancy is allowed within the development unless some other arrangement is agreed upon. The city shall not provide any service or maintenance until such time as all required improvements are completed and accepted by the city.

10C-20-85 IMPROVEMENT GUARANTEE. Before approval of a Final Plat, the land developer shall either install required improvements, or execute and file with the city manager an agreement between the developer and the city, specifying the period within which required improvements shall be completed, and providing that, if the work is not completed within the period specified, the city may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the land developer.

10C-20-90 SURETY REQUIRED. The land developer shall file with the agreement to complete improvements, to assure his or her full and faithful performance thereof, one of the following:

- A. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the city attorney.
- B. Cash or marketable securities acceptable to the city.
- C. At the council's option, a developer of six lots or less may be asked to supply a letter of credit to insure the money is available to complete the improvements, at which time the council may waive the bond requirement.

10C-20-95 AMOUNT OF SURETY. Assurance of full and faithful performance of improvements construction shall be for a sum determined by the public works director as sufficient to cover the cost of improvements, including engineering and incidental expenses.

10C-20-100 CITY USE OF SURETY. If the land developer fails to carry out provisions of the agreement, and the city has un-reimbursed costs or expenses resulting from such failure, the city shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds costs and expenses incurred by the city, it shall release the remainder. If the

amount of the bond or cash deposit is less than the cost and expense incurred by the city, the land developer shall be liable to the city for the difference.

10C-25 TRANSPORTATION STANDARDS

10C-25.01 PURPOSE. The purpose of the transportation standards chapter is to consolidate all of the transportation related code into one chapter, Chapter 10C-25. All of the contents of Chapter 10C-25 apply directly to new development that is subject to a land use decision with the exception of Section 10C-25.06 which defines transportation improvement projects that are outright permitted or conditionally permitted.

10C-25.02 DEFINITIONS

For the purposes of this chapter, 10C-25, the definitions below and in Title 10A-03 shall apply.

- 10C-25.02.001 **Abutting** – Contiguous or adjoining. It shall include the terms adjacent, adjoining and contiguous.
- 10C-25.02.002 **Access Easement** – An easement recorded for the purpose of providing vehicle, bicycle, and/or pedestrian access from a public street to a parcel across intervening property under separate ownership from the parcel being provided access.
- 10C-25.02.003 **Accessible** – Approachable and useable by people with disabilities. Complies with the Americans With Disabilities Act.
- 10C-25.02.004 **Access Management** – Measures regulating access to arterials, collectors, local streets, and highways from public roads, private roads, and private driveways for the purpose of improving efficiency, safety, and/or operation of the roadway. These measures may include but are not limited to restrictions on the type and amount of access to roadways and the use of physical controls such as signals and channelization.
- 10C-25-02.005 **Accessway** – A walkway that provides pedestrian and/or bicycle passage either between streets or from a street to a building or other destination such as a school park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner which provides convenient access for pedestrians.
- 10C-25.02.006 **Adjacent** – Abutting or located directly across a street right-of-way.
- 10C-25.02.007 **Administrative** – A discretionary action or permit decision made without a public hearing, but requiring public notification and an opportunity for appeal.

- 10C-25.02.008 **ADT – Average Daily Traffic.** This term denotes the total traffic volume passing a point or segment of roadway in both directions for over an average weekday 24-hour period.
- 10C-25.02.009 **Adverse Impact** – Negative affect of a development that can be measured (e.g., noise, air, pollution, vibration, traffic, dust, etc.).
- 10C-25.02.010 **Airport Approach Safety Zone** - The land that underlies the approach surface, excluding the RAZ.
- 10C-25.02.011 **Airport Hazard** - Any structure, tree, or use of land which exceeds height limits established by the Airport Imaginary Surfaces.
- 10C-25.02.012 **Airport Imaginary Surfaces** - Those imaginary areas in space which are defined by the Approach Surface, Transitional Surface, Horizontal Surface, and Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.
- 10C-25.02.013 **Approach Surface** - A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Primary Surface. The inner edge of the approach surface is the same width as the Primary Surface and extends to a width of: 1,250 feet for utility runway having only visual approaches; 1,500 feet for a runway other than a utility runway having only visual approaches; 2,000 feet for a utility runway having a non-precision instrument approach; 3,500 feet for a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile; 4,000 feet for a non-precision instrument runway having visibility minimums as low as three-fourths statute mile; and 16,000 feet for precision instrument runways. The Approach Surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward to each foot upward (20:1) for all utility and visual runways; 10,000 feet at a slope of 34 feet outward for each foot upward (34:10 for all non-precision instrument runways other than utility; and for all precision instrument runways extends for a horizontal distance of 10,000 feet at a slope of 50 feet outward for each foot upward (50:1); thence slopes upward 40 feet outward for each foot upward (40:1) an additional distance of 40,000 feet.
- 10C-25-02.014 **Bicycle** – A vehicle having two tandem wheels, a minimum of 14” (35 cm) in diameter, propelled solely by human power, upon which any person or persons may ride. A three-wheeled adult tricycle is also considered a bicycle.
- 10C-25.02.015 **Bicycle Facility** – Any facility provided for the benefit of bicycle travel, including bikeways and parking facilities as well as all other roadways not specifically designated for bicycle use.
- 10C-25.02.016 **Bicycle Lane** – A portion of a roadway which has been designated by striping and pavement markings for the preferential or exclusive use of bicyclists.

- 10C-25.02.017 **Bikeway** – A bikeway is created when a road has the appropriate design treatment for bicyclists, based on motor vehicle traffic volumes and speeds. The following facilities are considered bikeways: shared roadway, shoulder bikeway, bike lane or bicycle boulevard. Another type of bikeway facility is separated from the roadway and is called a multi-use path.
- 10C-25.02.018 **Block** – An area of land whose boundaries are defined by public or private streets, excluding alleys.
- 10C-25.02.019 **Block Length** – The distance between intersections with other public or private roads as measured along the near-side right-of-way line.
- 10C-25.02.020 **Block Perimeter** – The perimeter of a block as measured along the near-side right-of-way lines of public streets or accessway easements, but exclusive of driveways.
- 10C-25.02.021 **Capacity** – The maximum rate of flow at which persons or vehicles can be reasonably expected to traverse a point or uniform segment of a lane or roadway during a specified time period under prevailing roadway, traffic, and control conditions, usually expressed as vehicles per hour or persons per hour.
- 10C-25.02.022 **Centerline Radius** – The radius of a centerline of a street right-of-way.
- 10C-25.02.023 **City Road or Street** – A road opened to and maintained for public travel by the City of Ontario.
- 10C-24.02.024 **Commercial Access** – An on-site road providing access to properties zoned for business, commercial, manufacturing, or industrial uses.
- 10C-24.02.025 **Conditional Use** – A use which requires a Conditional Use Permit (CUP).
- 10C-24.02.026 **Conical Surface** - Extends 20 feet outward for each one foot upward (20:1) for 4,000 feet beginning at the edge of the horizontal surface (5,000 feet from the center of each end of the Primary Surface of each visual and utility runway or 10,000 feet for all non-precision instrument runways other than utility at 150 feet above and airport elevation) and upward extending to a height of 350 feet above the airport elevation.
- 10C-24.02.027 **Corner Radius** – The radius of a street corner, as measured around the curb or edge of pavement.
- 10C-24.02.028 **Crosswalk** – Portion of a roadway designated for pedestrian crossing, marked or unmarked. Unmarked crosswalks are the natural extension of the shoulder, curb line or sidewalk.
- 10C-24.02.029 **Dedication** – A conveyance of right-of-way to the city.
- 10C-24.02.030 **Development** – All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas,

grading, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or landscapes.

- 10C-24.02.031 **Driveway** – Areas that provide vehicular access to a site, except for public and private streets. A driveway begins at the property line and extends into the site. Driveways do not include parking, maneuvering, or circulation areas in parking space areas.
- 10C-24.02.032 **Easement** – A right of usage of real property granted by an owner to the public or to specific persons, firms, and corporations.
- 10C-24.02.033 **Flag Lot** – A lot or parcel which has access to a road, street, or easement, by means of a narrow strip of lot or easement.
- 10C-24.02.034 **Frontage** – The dimension of a property line abutting a public or private street.
- 10C-24.02.035 **Frontage Street or Road** – A minor street which parallels an arterial street in order to provide access to abutting properties and minimize direct access onto the arterial.
- 10C-24.02.036 **Horizontal Surface** - A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging runways 5,000 feet from the center of each end of the Primary Surface of each visual or utility runway and 10,000 feet from the center of each end of the Primary Surface of all other runways and connecting the adjacent arcs by lines tangent to those arcs.
- 10C-24.02.037 **Level of Service** – For transportation, a qualitative measure describing operational conditions within a traffic stream, generally described in terms of such factors as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety. At intersections, level of service is measured in terms of average delay and correlated to grades from LOS A which indicated little delay, to LOS F which indicates significant delay.
- 10C-25.02.038 **Mitigation** – To avoid, rectify, repair, or compensate for negative impacts which result from other actions (e.g., Improvements to a street may be required to mitigate for transportation impacts resulting from development.)
- 10C-25.02.039 **Multi-Use Path** – A path physically separated from motor vehicle traffic by an open space or barrier and either within a roadway right-of-way or within an independent right-of-way, used by bicyclists, pedestrians, joggers, skaters, and other non-motorized travelers.
- 10C-25.02.040 **Noise Sensitive Area** - Within 1,500 feet of an airport or within established noise contour boundaries exceeding 55 DNL.

- 10C-25.02.041 **Non-precision Instrument Runway** - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved, or planned, or indicated on an FAA or state planning document or military service airport planning document.
- 10C-25.02.042 **Pavement Markings** – Painted or applied lines or legends placed on a roadway surface for regulating, guiding, or warning traffic.
- 10C-25.02.043 **Pedestrian** – A person on foot, in a wheelchair, or walking a bicycle.
- 10C-25.02.044 **Pedestrian Facility** – A facility provided for the benefit of pedestrian travel, including walkways, crosswalks, signs, signals, illumination, and benches.
- 10C-25.02.045 **Place of Public Assembly** - Structure of place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation, or similar activity.
- 10C-25.02.046 **Precision Instrument Runway** - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), Microwave Landing System (MILS), Global Positioning Satellite (GPS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is not indicated by an FAA approved airport layout plan; any other FAA or state planning document, or military service airport planning document.
- 10C-25.02.047 **Primary Surface** - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the Primary Surface extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the Primary Surface ends at each end of that runway. The width of the primary Surface is 250 feet for utility runways having only visual approaches, 5,000 feet for utility runways having non-precision instrument approaches, 5,000 feet for other than utility runways having only visual approaches or non-precision instrument approaches with visibility minimums greater than three-fourths of a mile and 1,000 feet for non-precision instrument runways with visibility minimums of three-fourths of a mile or less and for precision instrument runways.
- 10C-25.02.048 **Private Road** – A road not maintained by a governmental jurisdiction.
- 10C-25.02.049 **Public Road** – A road maintained by a governmental jurisdiction.
- 10C-25.02.050 **Right-of-Way** – A general term denoting publicly-owned land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

- 10C-25.02.051 **Roadway** – The improved portion of an easement or right-of-way, excluding curbs, sidewalks, and ditches. Road, roadway, and street will be considered interchangeable terms.
- 10C-25.02.052 **Runway Approach Zone (RAZ)** - An area off the runway end (formerly the clear zone) used to enhance the protection of people and property on the ground. The RAZ is trapezoidal in shape and centered about the extended runway centerline. It begins 200 feet (60 m) beyond the end of the arcs usable for takeoff or landing. The RAZ dimensions are functions of the type of aircraft and operations to be conducted on the runway.
- 10C-25.02.053 **Shared Driveway** – When land uses on two or more lots or parcels share one driveway. An easement or tract (owned in common) may be created for this purpose.
- 10C-25.02.054 **Shared Roadway** – A type of bikeway where bicyclists and motor vehicles share a travel lane.
- 10C-25.02.055 **Shoulder** – The portion of a roadway that is contiguous to the travel lanes providing for pedestrians, bicyclists, emergency use by vehicles and for lateral support of base and surface courses.
- 10C-25.02.056 **Shoulder Bikeway** – A type of bikeway where bicyclists travel on a paved shoulder.
- 10C-25.02.057 **Shy Distance** – The distance between the edge of a travel way and a fixed object.
- 10C-25.02.058 **Sidewalk** – A walkway separated from the roadway with a curb, constructed of a durable, hard and smooth surface, designed for preferential or exclusive use by pedestrians.
- 10C-25.02.059 **Sight Distance** – The distance a person can see along an unobstructed line of sight.
- 10C-25.02.060 **Street Connectivity** – The number of street connections within a specific geographic area. Higher levels of connectivity provide for more direct transportation routes and better dispersion of traffic, resulting in less traffic on individual streets and potentially slower speeds through neighborhoods.
- 10C-25.02.061 **Street Stub** – A temporary street ending; i.e., where the street will be extended through adjacent property in the future, as those properties develop. Not a permanent street-end or dead-end street.
- 10C-25.02.062 **Traffic Calming Devices** – Physical devices within the roadway designed to manage traffic speeds or which disperse traffic such as speed bumps/humps and traffic circles.

- 10C-25.02.063 **Transitional Surface** - Extend seven feet outward for each one foot upward (7:1) beginning on each side of the Primary Surface which point is the same elevation as the runway surface, and form the sides of the approach surfaces thence extending upward to a height of 150 feet above the airport elevation (Horizontal Surface).
- 10C-25.02.064 **Utility Runway** - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.
- 10C-25.02.065 **V/C Ratio** – The ratio of demand flow rate to capacity for a traffic facility.
- 10C-25.02.066 **Visual Runway** - A runway that is intended solely for the operation of aircraft using visual approach procedures with no instrument approach procedures has been approved, or planned, or indicated on an FAA or state planning document or military service airport planning document.
- 10C-25.02.067 **Volume** – The number of persons or vehicles passing a point on a lane, roadway, or other traffic way during some time interval, often taken to be one hour, expressed in vehicles.
- 10C-25.02.068 **Walkway** – A transportation facility built for use by pedestrians, including persons in wheelchairs. Walkways include sidewalks, paths, and paved shoulders.
- 10C-25.02.069 **Wide Outside Lane** – A wider than normal curbside travel lane that is provided for ease of bicycle operation where there is insufficient room for a bike lane or shoulder or shoulder bikeway.

10C-25.03 ACCESS MANAGEMENT STANDARDS

10C-25.03.001 Intent and Purpose

This section of the land use and development code identifies who is subject to apply for an access permit, how the number of accesses are determined, where the access(es) may be located, access standards that must be met, and development review procedure and submittal requirements in relation to access management.

10C-25.03.002 Actions Requiring Access Permits and Authority to Grant Access Permits

a) Projects Requiring Access Permits

Access permits are required for new development projects requiring permitting from the City of Ontario; and for re-development projects requiring permitting from the City of Ontario that fall under (f) Nonconforming Access Features, below. Trip generation shall be calculated from the latest version of the Trip Generation Manual from the Institute of Traffic Engineers (ITE) or from actual local trip generation surveys.

b) Access Permits onto City Streets

Permits for access onto city streets shall be subject to review and approval by the Public Works Director and/or his/her designee. The criteria for granting access permits shall be based on the standards contained in this section. The access permit may be granted in the form of a "City of Ontario access permit" as part of a building permit, or noted in the body of the Final Order for a land use decision.

c) State Highway Access Permits

Permits for access onto State highways shall be subject to review and approval by Oregon Department of Transportation (ODOT), except when ODOT has delegated this responsibility to the City of Ontario or Malheur County. In that case, the City of Ontario and/or Malheur County shall determine whether access is granted based on ODOT's adopted standards.

d) Malheur County Roadway Access Permits

Permits for access onto Malheur County roadways shall be subject to review and approval by Malheur County, except where the county has delegated this responsibility to the City of Ontario, in which case the City of Ontario shall determine whether access is granted based on adopted City of Ontario standards.

e) Conditions of Approval with Granting of Access Permit

The City of Ontario or other agencies 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 or cross-access between properties), 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 system.

f) Non-Conforming Access Features

Legal access connections in place as of the effective date of this section that do not conform with the standards herein are considered nonconforming features and shall be brought into compliance with applicable standards under one or more of the following conditions:

- (1) Owner's request;
- (2) At the time the property receives an additional access cut;
- (3) When curb installation is required, such as at annexation;
- (4) Construction of a new principal structure;
- (5) Construction of a new parking-related accessory structure
- (6) Addition to an existing principal structure or parking-related accessory structure in which there is no accompanying change of use and one or more of the following conditions are met:
 - (i) The square footage of the structure is increased by 33% or more;
 - (ii) The ITE Trip Generation Manual (Manual) shows that traffic will increase by 20% or more;
 - (iii) The ITE Manual shows that traffic will increase by 40 or more trips in the peak hour of the adjacent street.

Trip generation shall be calculated from the latest version of the Trip Generation Manual from the Institute of Traffic Engineers (ITE) or from actual local trip generation surveys. All Calculations, trip generation surveys or traffic studies shall be performed by an Oregon-licensed Engineer qualified to perform traffic engineering functions, and shall be done at the applicant's cost.

- (7) A change in use, which, in conjunction with accompanying construction, if any, in which the ITE Manual shows either:
 - (i) a traffic increase of 20% or more;
 - (ii) a traffic increase of 40 or more trips in the peak hour of the adjacent street.
- (8) When new access connection permits are requested or required.

For sections 6 & 7 above, traffic counts from comparable uses, preferably local, may be used instead of the ITE Manual provided that the City and developer agree on which comparable uses to use, and one or more of the following conditions is met:

- (i) The information in the ITE Manual is based on insufficient sample size to provide accurate traffic forecasts.
- (ii) The ITE Manual does not have an applicable category.
- (iii) The City and the developer agree that the ITE Manual is in some other way deficient.

In cases in which the City and developer disagree over potential traffic generation and the disagreement cannot be resolved through any of the above provisions, the City may retain an Oregon-licensed Traffic Engineer to perform an additional traffic generation study based on the applicant's proposal, and those results may be utilized. The City may charge the entire cost of this study to the applicant.

g) City's Authority to Change Accesses

The City of Ontario has the authority to change accesses for all uses if it is constructing a capital improvement project along that section of the public street. The access changes shall meet all current standards. If it is not possible to change a particular access to meet all the current standards, then a non-conforming access shall be acceptable so long as it maintains the current condition or improves it to more closely meet the current standards and is allowed through a nonconforming use exception.

10C-25.03.003 Number of Allowed Accesses

a) Number of Allowed Accesses for Single-Family Residential Lots

A single-family residential lot may request up to two driveways on a local street. If two residential driveways are requested from a single-family lot, then it shall be subject to spacing standards of 10C-25.03.004.b).

b) Number of Allowed Accesses for Multi-Family Uses

The number of driveways allowed for multi-family residential uses shall be based on the daily trip generation of the site in question. One driveway shall be allowed for up to 1,000 daily trips generated. A second access will be allowed if over 1,000 daily trips are generated. Notwithstanding the foregoing, Emergency access requirements shall be determined by the fire marshal and/or the Public Works Director or his/her designee, and may supercede the trip generation threshold. Each driveway/access shall meet the spacing standards defined in 10C-25.03.004.h).

c) Number of Allowed Accesses for Non-Residential Uses

The number of driveways allowed for non-residential uses shall be based on the daily trip generation of the site in question. One driveway shall be allowed for up to 2,500 daily trips generated with a maximum of two driveways. An exception shall be allowed if it is proven through a transportation impact study that this limitation creates a significant traffic operations hardship for on-site traffic. The primary criteria to allow more driveways will be level of service analysis, queuing analysis, and safety analysis of the site accesses. If a development has a need for more than two access points, then signalization of the main access shall be investigated as a potential option prior to

allowing additional driveways. A signal warrant study will then be required to study whether or not signalization of the main access is required. The Public Works Director or his/her designee shall determine whether the traffic study adequately proves that more accesses are needed for a particular project.

d) Drive-through Business Access

A drive-through business such as a bank with a drive-through, fast food restaurant, coffee/espresso stand, gas station, and convenience store may be granted a second access even if they do not meet the criteria under 10C-25.03.003.c) if all of the following conditions are met:

- (1) At most, only one driveway is located on an arterial and it meets the access spacing standards in 10C-25.03.004.h). If a center left turn lane is not available on the arterial to facilitate movements turning into and out of the drive-through business, then the Public Works Director or his/her designee has right to limit the arterial access to a right in, right out driveway. The right in, right out arterial driveway is also subject to meeting the access spacing standards in 10C-25.03.004.h).
- (2) Two driveways may be located on one collector or local streets as long as the access spacing standards in 10C-25.03.004.h) are met for both driveways.
- (3) On corner lots, only one access on the higher classification street is allowed, and only if the access spacing standard for two driveways cannot be met along the lower classification street. Both driveways must meet the access spacing standards in 10C-25.03.004.h).
- (4) If a drive-through business access or access(es) cannot meet the standards above, a conditional access may be granted subject to 10C-25.03.004.d). The Public Works Director or his/her designee has the right to replace the conditional access with a right in, right out driveway.

e) Right in, Right Out Access

- (1) If a center left turn lane is not available on the arterial and/or collector to facilitate movements turning into and out of a driveway, then the Public Works Director or his/her designee has right to limit the driveway access to a right in, right out driveway. The right in, right out driveway is also subject to meeting the access spacing standards in 10C-25.03.004.h).
- (2) If a driveway cannot meet the access spacing standards in 10C-25.03.004.h) and a variance is being sought for the development's access, then a right in, right out driveway shall be the first consideration to provide access. Only if a demonstrated hardship such as the creation of significant out of direction travel is demonstrated in the variance shall consideration be given to a conditional full access driveway. Any conditional access shall be subject to 10C-25.03.004.d).

- (3) Right in, right out driveways shall count toward the maximum number of driveways allowed under 10C-25.03.003.

10C-25.03.004 Location of Accesses for Non-Residential Uses

Vehicle access locations shall be provided based on the following criteria:

a) Corner Lot Access

Corner lot driveways on local streets shall be a minimum of fifty (50) feet from the intersecting property lines or in the case where this is impractical, the driveway shall be located five (5) feet from the property line away from the intersection or as a joint use driveway at this property line. Corner lots on arterial, minor arterial, or collectors shall have driveways located on the minor cross street. If the corner lot also fronts an alley, then access shall be provided by the alley rather than the minor street. If this is not feasible, then the corner lot driveway on an arterial, minor arterial, or collector must follow the minimum access spacing standard in Table 10C-25.03.004.h) or if this is impractical, the driveway shall be located five (5) feet from the property line away from the intersection or as a joint use driveway at this property line.

b) Two Single-Family Residential Driveway Spacing for One Lot

Where two single-family residential driveways are permitted for one single-family residential lot, a minimum separation of 50 feet shall be required. The 50 feet separation shall be measured from the perpendicular near edge to perpendicular near edge.

c) Access onto Lowest Functional Classification Roadway Requirement

Access shall be provided from the lowest functional classification roadway. If a parcel during redevelopment has access to both an arterial and a lower classified roadway, and the current arterial access does not meet spacing standards, then the arterial driveway shall be closed and access shall be granted along the lower functional classification roadway. This shall also apply for a series of non-residential contiguous parcels under the same ownership or control of a development entity per the requirements set for in 10C-25.03.006.a)(5).

d) Conditional Access Permits

Conditional access permits may be given to developments that cannot meet current access spacing and access management standards as long as other standards such as sight distance and other geometric standards can be met. In conjunction with the conditional access permit, crossover easements shall be provided on all compatible parcels without topography and land use conflicts. The conditional access permit shall allow temporary access until it is possible to consolidate and share access points in such a manner to either improve toward the current standards or to meet the current access spacing standards. Figure 10C-25.03.004.d) illustrates the concept of how the crossover easements eventually work toward meeting access spacing standards.

e) Shared Driveway Requirement for Adjacent Non-Residential Parcels with Non-Conforming Access(es)

Adjacent non-residential parcels with non-conforming access(es) shall be required to share driveways along arterial, minor arterial, and collector roadways pursuant to 10C-25.03.002 which defines when the requirement is triggered. If the adjacent use refuses to allow for a shared driveway, then a conditional access permit may be given. As a condition of approval, cross-easements shall be granted to the adjacent non-residential parcel to secure a shared driveway later when the adjacent parcel redevelops, seeks to obtain an access permit, or becomes available.

f) Residential Subdivision Access Requirements

Residential subdivisions fronting an arterial, minor arterial, or collector roadway shall be required to provide access from secondary local streets for access to individual lots. When secondary local streets cannot be constructed due to topographic or physical constraints, access shall be provided by consolidating driveways per the requirements set for in 10C-25.03.004.d). In this situation, the residential subdivision shall still meet driveway spacing requirements of the arterial, minor arterial, or collector roadway.

g) Phased Development Plans

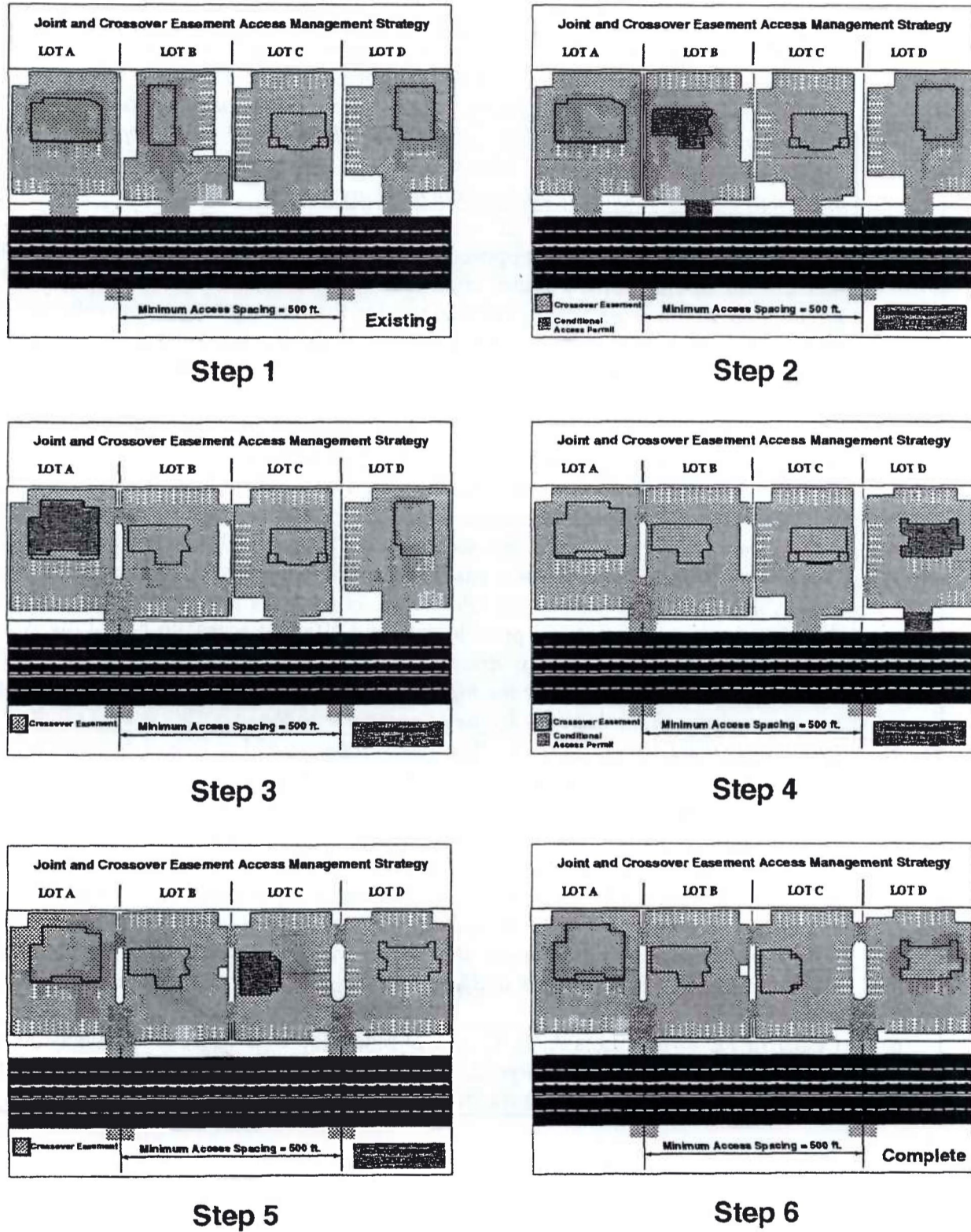
In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall be reviewed as a single property in relation to the access standards of this section. The number of access points permitted shall be as defined in 10C-25.03.003. All necessary easement agreements and stipulations within the phased development shall be met to assure that all tenants within the development have adequate access. This shall also apply to phased development plans.

All access to individual uses or buildings within a phased development must be internalized within the site plan using the shared circulation system of the principal development. Driveways shall be designed to avoid queuing across surrounding parking and driving aisles.

h) Access Spacing Standards

The streets within Ontario are classified as arterials, minor arterials, collectors, and local streets. The access spacing standards are shown in Table 10C-25.03.004.h). for both full intersection spacing and driveway spacing.

Figure 10C-25.03.004.d)
Example of Crossover Easement and Conditional Access Policy



Continued Figure 10C-25.03.004.d)
Example of Crossover Easement and Conditional Access Policy

Step	Process
1	<i>EXISTING</i> – Currently Lots A, B, C, and D have site-access driveways that neither meet the access spacing criteria of 500 feet nor align with driveways or access points on the opposite side of the highway. <i>Under these conditions motorists are put into situations of potential conflict (conflicting left turns) with opposing traffic. Additionally, the number of side-street (or site-access driveway) intersections decreases the operation and safety of the highway</i>
2	<i>REDEVELOPMENT OF LOT B</i> – At the time that Lot B redevelops, the local jurisdiction would review the proposed site plan and make recommendations to ensure that the site could promote future crossover or consolidated access. Next, the local jurisdiction would issue conditional permits for the development to provide crossover easements with Lots A and C, and ODOT would grant a conditional access permit to the lot. <i>After evaluating the land use action, ODOT would determine that LOT B does not have either alternative access, nor can an access point be aligned with an opposing access point, nor can the available lot frontage provide an access point that meets the access spacing criteria set forth for this segment of highway.</i>
3	<i>REDEVELOPMENT OF LOT A</i> – At the time Lot A redevelops, the local jurisdiction and ODOT would undertake the same review process as with the redevelopment of LOT B (see Step 2); however, under this scenario ODOT and the local jurisdiction would use the previously obtained cross-over easement at Lot B to consolidate the access points of Lots A and B. ODOT would then relocate the conditional access of Lot B to align with the opposing access point and provide safe and efficient access to both Lots A and B. <i>The consolidation of site-access driveways for Lots A and B will not only reduce the number of driveways accessing the highway, but will also eliminate the conflicting left-turn movements on the highway by the alignment with the opposing access point.</i>
4	<i>REDEVELOPMENT OF LOT D</i> – The redevelopment of Lot D will be handled in the same manner as the redevelopment of Lot B (see Step 2)
5	<i>REDEVELOPMENT OF LOT C</i> – The redevelopment of Lot C will be reviewed once again to ensure that the site will accommodate crossover and/or consolidated access. Using the crossover agreements with Lots B and D, Lot C would share a consolidated access point with Lot D and will also have alternative frontage access via the shared site-access driveway of Lots A and B. <i>By using the crossover agreement and conditional access permit process, the local jurisdiction and ODOT will be able to eliminate another access point and provide the alignment with the opposing access points.</i>
6	<i>COMPLETE</i> – After Lots A, B, C, and D redevelop over time, the number of access points will be reduced and aligned, and the remaining access points will meet the <i>Category 4</i> access management standard of 500-foot spacing.

Table 10C-25.03.004.h). Access Spacing Standard

Functional Roadway Classification	Minimum Public Intersection Spacing Standard	Minimum Spacing between Driveways and/or Streets
Principal Arterial	¼ mile	600 feet
Minor Arterial	¼ mile	300 feet
Collector	300 feet	50 feet
Neighborhood Collector	300 feet	50 feet
Local Residential Street	300 feet	access to each lot
Local Commercial/Industrial Street	300 feet	access to each lot

i) Highway Terminal Ramps Control Zone

This subsection adopts the 1999 Oregon Highway Plan for access management spacing standards for the I-84 interchange ramps. All future development adjacent to the control zone around the on-and off-ramp intersections must comply with the standards set forth in OAR 734-051.

j) Joint and Cross Access for Properties with Non-Conforming Access(es)

- (1) Adjacent non-residential uses shall provide a crossover easement drive and pedestrian access to allow circulation between sites.
- (2) A system of joint use driveways and crossover easements shall be established wherever feasible.
- (3) Pursuant to this section, property owners shall:
 - (a) Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive.
 - (b) Record an agreement with the City of Ontario stating that pre-existing driveways will be closed and eliminated after construction of the joint-use driveway.
 - (c) Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners for the cross access and joint-use driveways.

k) The City of Ontario may reduce required separation distance of access points defined in Table 10C-25.03.004.h) where they prove impractical as defined by the Public Works Director or his/her designee, provided all of the following requirements are met:

- (1) Joint access driveways and cross access easements are provided in accordance with this section.

- (2) The site plan incorporates a unified access and circulation system in accordance with this section.
 - (3) The property owner enters into a written agreement with the City of Ontario, recorded with the deed, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint use driveway.
- 1) The City of Ontario may modify or waive the requirements of this section where the characteristics or layout of abutting properties would make a development of a unified or shared access and circulation system impractical based on physical site characteristics that make meeting the access standards infeasible. The modification or waiver shall be through a variance application wherein the following findings must be made:
- (1) The application of the location of access standards will result in the degradation of operational and safety integrity of the transportation system.
 - (2) The granting of the variance shall meet the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored.
 - (3) Applicants for variance from these standards must provide proof of unique or special conditions that make strict application of the provisions impractical.

Applicants shall include proof that:

- a) Indirect or restricted access cannot be obtained;
 - b) No engineering or construction solutions can be applied to mitigate the condition; and
 - c) No alternative access is available from a road with a lower functional classification than the primary roadway.
- (4) No variance shall be granted where such hardship is self-created.

10C-25.03.005 Access Standards

a) Driveway Design

- (1) See Public Works Street Design Standards for minimum and maximum driveway widths.
- (2) Driveways providing access into off-street, surface parking lots shall be designed in such a manner to prevent vehicles from backing into the flow of traffic on the public street and from blocking on-site circulation. The driveway throat approaching the public street shall have adequate queue length for exiting vehicles to queue on-site without blocking on-site circulation of other vehicles. The driveway throat approaching the public street shall also have sufficient storage for entering traffic not

to back into the flow of traffic onto the public street. A transportation impact study, subject to approval by the Public Works Director or his/her designee, shall be used to determine the adequate queue length of the driveway throat. This requirement shall be applied in conjunction with the design requirements of parking lots. If there is a conflict between these two code provisions, then this code provision supersedes those of the design requirements of parking lots.

- (3) Driveway approaches must be designed and located to provide an exiting vehicle with an unobstructed view. Sight distance triangle requirements are identified in 10C-25.03.005.c) and 10C-25.03.005.d). Construction of driveways along acceleration lanes, deceleration lanes, or tapers shall be prohibited due to the potential for vehicular weaving conflicts unless there are no other alternatives for driveway locations. Only after a transportation impact study is conducted as defined in 10C-25.06 and concludes that the driveway does not create a safety hazard along acceleration lanes, deceleration lanes, or taper shall the driveway be considered for approval. Approval of a driveway location along an acceleration lane, deceleration lane, or taper shall be based on the Public Works Director or his/her designee agreeing with the conclusions of the traffic impact study.

b) Public Road Stopping Sight Distance

Public roads shall have a minimum stopping sight distance requirement as summarized in Table 10C-25.03.005.b). The minimum stopping sight distance is measured from a height of 3.5 feet to a target on the roadway nominally six (6) inches in height.

The minimum stopping sight distance is based on design speed of the roadway. The assumed design speed shall be at least 5 mph more than the posted speed or may be measured as the 85th percentile speed.

**Table 10C-25.03.005.b)
Stopping Sight Distance Requirement**

Design Speed (mph)	Minimum Distance (feet)
25	155
30	200
35	250
40	305
45	360
50	425

c) Sight Distance Triangle

Traffic entering an uncontrolled public road from a stop sign controlled public road, or from private roads or private driveways, shall have minimum sight distances, as shown in Table 10C-25.03.005.c), except as allowed in 10C-25.03.005.d).

The sight distance triangle is based on design speed of the roadway. The design speed shall be at least 5 mph more than the posted speed or may be measured as the 90th percentile speed.

The intersection and driveway sight distance is measured from an eye height of 3.5 feet above the controlled road at least 15 feet from the edge of the vehicle travel lane of the uncontrolled public road to an object height of 4.25 feet on the uncontrolled public road in accordance with the table below. This definition for measuring sight distance is consistent with AASHTO (American Association of State Highway and Transportation Officials) standards.

Table 10C-25.03.005.c)
Intersection/Driveway Sight Distance Triangle Requirement

Design Speed (mph)	Minimum Distance (feet)
20	200
25	250
30	300
35	350
40	400
45	450
50	500

d) Uncontrolled Intersection and Driveway Sight Distance Triangle in Residential Areas

This subsection only applies to local access roads in urban and rural residential areas. Uncontrolled intersections shall have an unobstructed sight distance triangle of 50 feet along the right-of-way lines of both intersection approaches. Any vegetation within the sight distance triangle must be 30 inches in height or less. For driveways, the sight distance triangle along the driveway and property line adjacent to the public street shall be a minimum of 10 feet for each leg.

e) Flag Lot Access Standard

(1) Flag lots shall not be permitted when the result would be to increase the number of properties requiring direct and individual access connections to the State Highway System or other arterials.

- (2) Flag lots shall be discouraged in residential development, but may be permitted when deemed necessary to achieve planning objectives, such as reducing direct access to roadways, providing internal platted lots with access to a residential street, preserving natural or historic resources, and to deal with physical factors on a property such as difficult terrain, wetlands, etc., only under the following conditions:
 - (a) Flag lot driveways shall be separated by at least twice the minimum frontage requirement of that zoning district, or, may be adjacent if sharing a single access point as set forth in (b) below.
 - (b) The flag lot driveway shall have a minimum pavement width of 20 feet and maximum of 25 feet, and must be constructed to City standards. Adjacent flag lots may be allowed if sharing a single access point; however, the shared driveway must be in the form of a written, recorded access easement; such easement shall be no more than 25 feet in width and no more than 150 feet deep as measured from the edge of the right-of-way of the public street. The easement must include a construction/maintenance agreement for all lots sharing the easement. This supersedes the requirements for minimum and maximum driveway widths.
 - (c) No more than three flag lots shall be permitted to use a shared access point through an easement as set forth in (b) above.

10C-25.03.006 Connectivity and Circulation Standards

- a) These Connectivity criteria and standards are applicable to all development requiring permitting from the City.
 - (1) The street system of proposed land divisions shall be designed to connect with existing, proposed, and planned streets outside of the subject property. Figures 7-9a and 7-9b in the Plan Document show the local street network plan; any development must take into account this plan when establishing structures, utilities or any other facilities. No development is allowed within a planned right-of-way unless the developer and the City reach agreement on an alternative plan to provide appropriate connectivity and circulation.
 - (2) Wherever a proposed development abuts unplatted, developable land, and/or a future development phase of the same development, street stubs shall be provided to the property line of the abutting land to provide access to abutting properties and/or to logically extend the street system into the surrounding area. Public right-of-way shall be provided and the stub constructed, both to City standards. Any stub may be required to have a temporary turn-around meeting the requirements of the Public Works Director if deemed necessary by the Director, or by the Fire Chief.
 - (3) Neighborhood collectors and local residential access streets shall connect with surrounding streets to permit the convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation. Connections shall be

designed to avoid or minimize through traffic on local streets. Appropriate design and traffic calming measures are the preferred means of discouraging through traffic. These measures are defined in the Ontario Transportation System Plan.

- (4) Developers shall construct roadways within their development site to conform to the Future Street Plan in the transportation system plan. Flexibility of the future roadway alignment shall be at the discretion of the Public Works Director and/or his designee but must maintain the intent of the Future Street Plan.
- (5) Except for residential developments, all developments shall include a system of joint use driveways and crossover easements wherever feasible and shall incorporate the following:
 - (a) A continuous service drive or crossover easement corridor extending the entire length of each block served to provide for driveway separation consistent with the access standards set for each functional roadway classification.
 - (b) A design speed of 10 mph and a maximum width defined in the Public Works Street Design Standards, to accommodate two-way travel aisles designated to accommodate automobiles, service vehicles, and loading vehicles;
 - (c) Access stub-outs and other design features to make it visually obvious that the abutting properties will be linked to provide cross access via an easement and service drive for that purpose;
 - (d) A unified access and circulation system plan shall be submitted as part of the documentation for joint and cross access. A unified access and circulation system plan encompasses contiguous, adjacent parcels that share access(es). The unified access and circulation system plan shows how the joint and cross access(es) work together to meet the needs of all property owners and uses. It includes showing how parking areas of the various uses sharing access(es) coordinate and work with each other.

b) Cul-de-sac and Accessways

- (1) Cul-de-sacs or permanent dead-end streets may be used as part of a development plan only if topographical, environmental, or existing adjacent land use constraints make connecting and through streets unfeasible. Where cul-de-sacs are planned, accessways shall be provided connecting the ends of cul-de-sacs to each other, to other streets, and/or to neighborhood activity centers unless topographical, environmental, or existing adjacent land use constraints make it unfeasible.
- (3) Accessways for pedestrians and bicyclists shall be 10 feet wide and located within a 15-foot wide right-of-way or easement. If the streets with the development are lighted, the accessways shall also be lighted to the same standard. Stairs or switchback paths may be used where grades are steep; ADA requirements must be met. Any vegetation planted within the accessway shall not impede pedestrians and bicyclists.

c) Block Length and Perimeter Standard

The standard maximum block length from right-of-way line to right-of-way line shall be 600 feet for collectors and local streets. The maximum block perimeter for collector and local streets shall be 1,800 feet. Along principal arterials and minor arterials that make a block with collectors and/or local streets, the maximum block length 3,440 feet. If the block perimeter consists of all principal arterials and minor arterials, then the maximum block length is 5,280 feet.

If a hardship can be demonstrated in which it is not practically feasible to meet these standards due to topographical, environmental, or other significant constraints, then these conditions may be requested to be modified through the Public Works Director or his/her designee.

Alleys may be used within residential subdivisions. The maximum alley length is 300 feet between ties to public streets. Midblock access(es) to alleys must align with existing or planned public streets.

10C-25.03.007 Development Review Procedure for Access Management

- a) At the discretion of the Public Works Director or his/her designee, applicants for Development Reviews impacting access shall submit a preliminary site plan that shows:
- (1) Location of existing and proposed access point(s) on both sides of the roadway for a distance equal to the spacing standard for that facility;
 - (2) Distances from proposed access point to neighboring constructed access points, median openings (where applicable), traffic signals (where applicable), intersections, and other transportation features on both sides of the property;
 - (3) Number and direction of lanes to be constructed on the driveway plus striping plans;
 - (4) All planned transportation features (such as sidewalks, bikeways, signs, signals, etc.);
- b) Development Reviews shall address the following access criteria:
- (1) Access shall be properly placed in relation to sight distance, driveway spacing, and other related considerations, including opportunities for joint and cross access.
 - (2) The external road system to the project site and internal road system within the project site shall provide adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.
 - (3) The access shall be consistent with the access management standards adopted in the Transportation System Plan and contained within 10C-25.03.
- c) Any application that involves access to the State Highway System shall be reviewed by the Oregon Department of Transportation for conformance with state access management

standards. Any application that involves access to Malheur County's roadway system shall be reviewed by City of Ontario staff for conformance with City of Ontario access management standards.

10C-25.04 BICYCLE AND PEDESTRIAN STANDARDS

10C-25.04.001 Bicycle Parking Requirement

- (a) The following Special Minimum Standards shall be considered as supplemental requirements for the number of required bicycle parking spaces.
- (1) Multi-Family Residences. Every residential use of four (4) or more dwelling units shall provide at least one sheltered bicycle parking space for each unit. Sheltered bicycle parking spaces may be located within a garage, storage shed, basement, utility room or similar area. In those instances in which the residential complex has no garage or other easily accessible storage unit, the required bicycle parking spaces shall be sheltered under an eave, overhang, an independent structure, or similar cover.
 - (2) Parking Lots. All public and commercial parking lots and parking structures shall provide a minimum of one bicycle parking space for every 10 motor vehicle parking spaces.
 - (3) Schools. Elementary and middle schools, both private and public, shall provide one bicycle parking space for every 10 students and employees. High schools shall provide one bicycle parking space for every 5 students and employees.
 - (4) Colleges. Colleges, universities, and trade schools shall provide one bicycle parking space for every 10 motor vehicle spaces plus one space for every dormitory unit.
 - (5) Downtown Areas. In downtown areas with on-street parking, bicycle parking for customers shall be provided along the street at a rate of at least one space per use. Spaces may be clustered to serve up to six (6) bicycles; at least one cluster per block shall be provided. Bicycle parking spaces shall be located in front of the stores along the street, either on the sidewalks in specially constructed areas such as pedestrian curb extensions. Inverted "U" style racks are recommended. Bicycle parking shall not interfere with pedestrian passage, leaving a clear area of at least 5 feet. Bicycle parking (within a building, or under an eave, overhang, or similar structure) shall be provided at a rate of one space per 10 employees, with a minimum of one space per store.
 - (6) Rural Schools, Service Centers, and Industrial Parks. Where a school, service center, or industrial park is located 5 or more miles from the closest urban area or rural residential subdivision with a density of more than one dwelling unit per 20 acres, a minimum of two bicycle parking spaces per use shall be required.
- (c) The following shall be used in calculating the Number of Required Bicycle Parking Spaces:

- (1) Fractional numbers of spaces shall be rounded up to the next whole space.
- (2) For facilities with multiple uses (such as a commercial center), the bicycle parking requirements shall be calculated by using the total number of motor vehicle parking spaces required for the entire development

10C-25.04.002 Bicycle and Pedestrian Circulation and Access Requirements for Site Plans

Required elements for a site plan shall include the design and location of bicycle parking and bicycle and pedestrian circulation elements such as accessways, walkways, and transit facilities. The following shall be included in the site plan:

- (a) **Bicycle Parking.** The development shall include the number and type of bicycle parking facilities required in the Off-Street Parking and Loading section of this Title. The location and design of bicycle parking facilities shall be indicated on the site plan.
- (b) **Pedestrian Access and Circulation.**

Internal pedestrian circulation shall be provided in new commercial, office, and multi-family residential developments through the clustering of buildings, construction of hard surface walkways, landscaping, accessways, or similar techniques.
- (c) All site plans (industrial and commercial) shall clearly show how the site's internal pedestrian and bicycle facilities connect with external existing or planned facilities or systems.

10C-25.04.003 Bicycle and Pedestrian Circulation and Access Requirements for Approval of Subdivision Tentative Plans and Final Plats

Information required shall include the location and design of all proposed pedestrian and bicycle facilities, including accessways. The following shall be included in subdivision tentative plans and final plats:

- (a) **Pedestrian and Bicycle Circulation.**
 - (1) On-site facilities shall be provided that accommodate safe and convenient pedestrian and bicycle access within new subdivisions, multi-family developments, planned development, shopping centers, and commercial districts, and connecting to adjacent residential areas and neighborhood activity centers within one-half mile of the development. Residential developments shall include streets with sidewalks and accessways. Pedestrian circulation through parking lots shall be provided in the form of accessways.
 - (2) Bikeways shall be required along arterials and collectors with ADTs greater than 3,000. Sidewalks shall be required along arterials, collectors, and most local streets, except that sidewalks are not required along controlled access roadways (freeways).

(b) Cul-de-Sacs and Accessways.

- (1) Cul-de-sacs or permanent dead-end streets may be used as part of a development plan; however, through streets are encouraged except where topographical, environmental, or existing adjacent land use constraints make connecting streets infeasible. If cul-de-sacs are planned, accessways shall be provided connecting the ends of cul-de-sacs to each other, to other streets, or to neighborhood activity centers.
- (2) Accessways for pedestrians and bicyclists shall be 10 feet wide and located within a 20-foot-wide' right-of-way or easement. If the streets within the subdivision are lighted, the accessways shall also be lighted. Stairs or switchback paths may be used where grades are steep; however, ADA requirements must be met.
- (3) Accessways for pedestrians and bicyclists shall be provided at mid-block where the block is longer than 400 feet.
- (4) The Hearings Body or Planning Director may determine, based upon evidence in the record, that an accessway is impracticable. Such evidence may include but is not limited to:
 - (a) Physical or topographic conditions make an access-way connection impractical. Such conditions include but are not limited to freeways, railroads, extremely steep slopes, wetlands, or other bodies of water where a connection cannot reasonable be provided.
 - (b) Buildings or other existing development on adjacent lands physically preclude a connection now or in the future, considering potential for redevelopment.
 - (c) If accessways would violate provisions of leases, easements, covenants, restrictions, or other agreements existing as of May 1, 1995 that preclude a required accessway connection.

10C-25.05 APPROVAL OF TRANSPORTATION IMPROVEMENT PROJECTS IDENTIFIED IN THE TRANSPORTATION SYSTEM PLAN

10C-25.05.001 Uses Permitted Outright. Except where otherwise specifically regulated by this ordinance, the following improvements are permitted outright:

- (a) Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.
- (b) Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
- (c) Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.
- (d) Landscaping as part of a transportation facility.

- (e) Emergency measures necessary for the safety and protection of property
- (f) Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan except for those that are located in exclusive farm use or forest zones.
- (g) Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.

10C-25.05.002 Conditional Uses Permitted

- a) Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are: (1) not improvements designated in the Transportation System Plan or City's Public Facilities Plan or (2) not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review, shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State projects that require an Environmental Impact Statement (EIS) or EA (Environmental Assessment), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:
 - (1) The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.
 - (2) The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.
 - (3) The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
 - (4) Project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this ordinance.
- b) If review under this Section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for a plan amendment shall be undertaken prior to or in conjunction with the conditional permit review.
- c) Time Limitation on Transportation-Related Conditional Use Permits

Authorization of a conditional use shall be void after a period specified by the applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.

10C-25.06 TRANSPORTATION IMPACT STUDY REQUIREMENT

10C-25.06.001 Intent and Purpose

A transportation impact analysis (TIA) provides an objective assessment of the anticipated modal transportation impacts associated with a specific land use action. A TIA answers important transportation-related questions such as:

- Can the existing transportation system accommodate the proposed development from a capacity and safety standpoint?
- What transportation system improvements are necessary to accommodate the proposed development?
- How will access to the proposed development affect the traffic operations on the existing transportation system?
- What transportation impacts will the proposed development have on the adjacent land uses, including commercial, institutional, and residential uses?
- Will the proposed development meet current standards for roadway design?

Throughout the development of the TIA (and beginning as early as possible), cooperation between City of Ontario staff, the applicant, and the applicant's traffic engineer is encouraged to provide an efficient and effective process.

City of Ontario staff may, at its discretion, and depending on the specific situation, require additional study components in a TIA beyond what is outlined in this section or waive requirements deemed inappropriate.

The City of Ontario assumes no liability for any costs or time delays (either direct or consequential) associated with the preparation and review of a transportation impact analysis.

A TIA is required as set forth below. In addition to those requirements, Special Plan Areas (SPA) have been established which are regulated in part by specific transportation-related plans adopted by the City of Ontario for each SPA. These plans have been adopted as supporting documents to the Goal 12 Element of the Comprehensive Plan, and, specifically as supporting documents to the Transportation System Plan. These Special Plan Areas include the North Ontario Interchange Management Plan Area, East Idaho Plan Area, East Ontario Commercial Plan Area and the 201 Corridor Refinement Plan Area. Within any existing, and future, SPA any traffic-related study for development within any SPA must address requirements of the specific plan adopted for that area and conform to those in addition to all other applicable City criteria and standards. Any traffic impact fee identified in any Special Plan must be paid as set forth in the specific Special Plan, by the developer, pursuant to a written agreement between the developer and the City, until such time as the City implements System Development Charges (SDC) whereupon traffic impact fees identified in the Special Plan Area Studies will be included in the SDC and not charged separately.

10C-25.06.002 When a Transportation Impact Analysis is Required

A TIA shall be required when:

- a) A proposed development generates 600 or more daily trip ends or 100 or more hourly trip ends, as defined by the Institute of Transportation Engineers (ITE), *Trip Generation Manual* or trip generation studies of comparable uses prepared by an engineer.
- b) The development is expected to impact intersections that are currently operating at the upper limits of the acceptable range of level of service during the peak operating hour.
- c) The development is expected to significantly impact adjacent roadways and intersections that have previously been identified as high crash locations or areas that contain a high concentration of pedestrians or bicyclists such as school zones.

10C-25.06.003 When a Transportation Assessment Letter is Required

- a) If a proposed development will generate 200 or more daily trip ends but less than 600, or 40 or more hourly trip ends but less than 100, then the applicant's traffic engineer shall submit a transportation assessment letter to the City indicating the proposed land use action is exempt. This letter shall outline the trip-generating characteristics of the proposed land use and verify that the site-access driveways or roadways meet City of Ontario sight-distance requirements and roadway design standards.
- b) Projects which generate less than 200 daily trip ends and less than 40 hourly trip ends in the peak hour will not be subject to a Transportation Impact Analysis or Transportation Assessment Letter except as set forth in (c) below.
- c) Projects which can reasonably be expected to generate more than 10 truck trips in any given hour may be subject to a Transportation Assessment Letter at the discretion of the City. For purposes of this regulation, a truck is defined as a vehicle with a gross vehicle weight rating of more than 20,000 pounds.

10C-25.06.004 Contents of a Transportation Impact Analysis

The following format shall be used in preparing a transportation impact analysis.

- a) Table of Contents. Listing of all sections, figures, and tables included in the report.
- b) Executive Summary. Summary of the findings and recommendations contained within the report.
- c) Introduction. Proposed land use action, including site location, building square footage, and project scope. Map showing the proposed site, building footprint, access driveways, and parking facilities. Map of the study area, which shows site location and surrounding roadway facilities.

- d) Existing Conditions. Existing site conditions and adjacent land uses. Roadway characteristics (all transportation facilities and modal opportunities located within the study area, including roadway functional classifications, street cross section descriptions, posted speeds, bicycle and pedestrian facilities, on-street parking, and transit facilities). Existing lane configurations and traffic control devices at the study area intersections. Existing traffic volumes and operational analysis of the study area roadways and intersections. Roadway and intersection crash history analysis.
- e) Background Conditions (without the proposed land use action). Approved developments and funded transportation improvements in the study area. Traffic growth assumptions. Addition of traffic from other planned developments. Background traffic volumes and operational analysis.
- f) Full Buildout Traffic Conditions (with the proposed land use action). Description of the proposed development plans. Trip-generation characteristics of the proposed development (including trip reduction documentation). Trip distribution assumptions. Full buildout traffic volumes and intersection operational analysis. Intersection and site-access driveway queuing analysis. Expected safety impacts. Recommended roadway and intersection mitigations (if necessary).
- g) Site Circulation Review. Evaluate internal site access and circulation. Review pedestrian paths between parking lots and buildings. Ensure adequate throat depth is available at the driveways and that vehicles entering the site do not block the public facilities. Review truck paths for the design vehicle.
- h) Turn Lane Warrant Evaluation. Evaluate the need to provide turn lanes at the site driveways.
- i) Conclusions and Recommendations. Bullet summary of key conclusions and recommendations from the transportation impact analysis.
- j) Appendix. Traffic counts summary sheets, crash analysis summary sheets, and existing/background/full buildout traffic operational analysis worksheets. Other analysis summary sheets such as queuing and signal warrant analyses.
- k) Figures. The following list of figures shall be included in the Transportation Impact Analysis: Site Vicinity Map; Existing Lane Configurations and Traffic Control Devices; Existing Traffic Volumes and Levels of Service (all peak hours evaluated); Future Year Background Traffic Volumes and Levels of Service (all peak hours evaluated); Proposed Site Plan; Future Year Assumed Lane Configurations and Traffic Control Devices; Estimated Trip Distribution Pattern; Site-Generated Traffic Volumes (all peak hours evaluated); Full Buildout Traffic Volumes and Levels of Service (all peak hours evaluated).
- k) Preparer Qualifications. A professional engineer registered in the State of Oregon shall prepare the Transportation Impact Analyses. In addition, the preparer shall have extensive experience in the methods and concepts associated with transportation impact studies.

10C-25.06.005 Study Area

The study area shall include, at a minimum, all site-access points and intersections (signalized and unsignalized) adjacent to the proposed site. If the proposed site fronts an arterial or collector street; the study shall include all intersections along the site frontage and within the access spacing distances extending out from the boundary of the site frontage. Beyond the minimum study area, the transportation impact analysis shall evaluate all intersections that receive site-generated trips that comprise at least 10% or more of the total intersection volume. In addition to these requirements, the Public Works Director (or his/her designee) shall determine any additional intersections or roadway links that might be adversely affected as a result of the proposed development. The applicant and the Public Works Director (or his/her designee) will agree on these intersections prior to the start of the transportation impact analysis.

10C-25.06.006 Study Years to be Analyzed in the Transportation Impact Analysis

A level-of-service analysis shall be performed for all study roadways and intersections for the following horizon years:

- a) **Existing Year. Evaluate all existing study roadways and intersections under existing conditions.**
- b) **Background Year.** Evaluate the study roadways and intersections in the year the proposed land use is expected to be fully built out, without traffic from the proposed land use. This analysis shall include traffic from all approved developments that impact the study intersections, or planned developments that are expected to be fully built out in the horizon year.
- c) **Full Buildout Year.** Evaluate the expected roadway, intersection, and land use conditions resulting from the background growth and the proposed land use action assuming full build-out and occupancy. For phased developments, an analysis shall be performed during each year a phase is expected to be completed.
- d) **Twenty-Year Analysis.** For all land use actions requesting a Comprehensive Plan Amendment and/or a Zone Change, a long-term level-of-service analysis shall be performed for all study intersections assuming buildout of the proposed site with and without the comprehensive plan designation and/or zoning designation in place. The analysis should be performed using the future year traffic volumes identified in the Transportation System Plan (TSP). If the applicant's traffic engineer proposes to use different future year traffic volumes, justification for not using the TSP volumes must be provided along with documentation of the forecasting methodology.

10C-25.06.007 Study Time Periods to be Analyzed in the Transportation Impact Analysis

Within each horizon year, a level-of-service analysis shall be performed for the time period(s) that experience the highest degree of network travel. These periods typically occur during the mid-week (Tuesday through Thursday) morning (7:00 a.m. to 9:00 a.m.), mid-week evening (4:00 p.m. to 6:00 p.m.), and Saturday afternoon (12:00 p.m. to 3:00 p.m.) periods. The transportation impact analysis shall always address the weekday a.m. and p.m. peak hours when the proposed lane use action is expected to generate 25 trips or more during the peak time

periods unless there is negligible traffic generated by the proposed project in those time periods. If the applicant can demonstrate that the peak-hour trip generation of the proposed land use action is negligible during one of the two peak study periods and the peak trip generation of the land use action corresponds to the roadway system peak, then only the worst-case study period shall be analyzed.

Depending on the proposed land use action and the expected trip-generating characteristics of that development, consideration of non-peak travel periods may be appropriate. Examples of land uses that have non-typical trip generating characteristics include schools, movie theaters, and churches. The Public Works Director (or his/her designee) and applicant shall discuss the potential for additional study periods prior to the start of the transportation impact analysis. The Public Works Director (or his/her designee) has the right to condition the applicant to study a non-peak period.

10C-25.06.008 Traffic Count Requirements

Once the study periods have been determined, turning movement counts shall be collected at all study area intersections to determine the base traffic conditions. These turning movement counts shall be conducted during the weekday (Tuesday through Thursday) between 7:00 and 9:00 a.m. and between 4:00 and 6:00 p.m., depending on the proposed land use. Historical turning movement counts may be used if the data are less than 12 months old, but must be factored to meet the existing traffic conditions.

10C-25.06.009 Trip Generation for the Proposed Development

To determine the impacts of a proposed development on the surrounding transportation network, the trip-generating characteristics of that development must be estimated. Trip-generating characteristics shall be obtained from one of the following acceptable sources:

- Institute of Transportation Engineers (ITE) Trip Generation Manual (latest edition).
- Specific trip generation studies that have been conducted for the particular land use action for the purposes of estimating peak-hour trip-generating characteristics. The Public Works Director (or his/her designee) shall approve the use of these studies prior to their inclusion in the transportation impact analysis.

In addition to new site-generated trips, several land uses typically generate additional trips that are not added to the adjacent traffic network. These trips include pass-by trips and internal trips and are considered to be separate from the total number of new trips generated by the proposed development. The procedures listed in the most recent version of the *Trip Generation Handbook* (ITE) shall be used to account for pass-by and internal trips.

10C-25.06.010 Trip Distribution

Estimated site-generated traffic from the proposed development shall be distributed and assigned on the existing or proposed arterial/collector street network. Trip distribution methods shall be based on a reasonable assumption of local travel patterns and the locations of off-site

origin/destination points within the site vicinity. Acceptable trip distribution methods shall be based on one of the following procedures:

- An analysis of local traffic patterns and intersection turning movement counts gathered within the previous 12 months.
- A detailed market study specific to the proposed development and surrounding land uses.

10C-25.06.011 Intersection Operation Standards

The City of Ontario evaluates intersection operational performance based on levels of service and “volume-to-capacity” (v/c) ratio. When evaluating the volume-to-capacity ratio, the total traffic demand shall be considered.

- a) Intersection Volume-to-Capacity Analysis. A capacity analysis shall be performed at all intersections within the identified study area. The methods identified in the latest edition of the *Highway Capacity Manual*, published by the Transportation Research Board, are to be used for all intersection capacity calculations. The City of Ontario requires that all intersections within the study area must maintain a v/c ratio of 0.95 or less. It should be noted that the mobility standards in the Oregon Highway Plan apply to Oregon Department of Transportation facilities.
- b) Intersection Levels of Service. The City of Ontario requires all intersections within the study area to maintain an acceptable level of service (LOS) upon full buildout of the proposed land use action. LOS calculations for signalized intersections are based on the average control delay per vehicle, while LOS calculations for unsignalized intersections are based on the average control delay and volume-to-capacity ratio for the worst or critical movement. All LOS calculations shall be made using the methods identified in the most recent version of the *Highway Capacity Manual* (or by field studies), published by the Transportation Research Board. The minimum acceptable level of service for signalized intersections is LOS “D”. The minimum acceptable level of service for all-way stop controlled intersections and roundabouts is LOS “D”. The minimum acceptable level of service for unsignalized two-way stop controlled intersections is LOS “E” or LOS “F” with a v/c ratio of 0.95 or less for the critical movement. Any intersections not operating at these standards will be considered to be unacceptable.

10C-25.06.012 Review Policy and Procedure

The following criteria shall be used in reviewing a transportation impact analysis as part of a subdivision or site plan review.

- a) The road system is designed to meet the projected traffic demand at full build-out.
- b) Proposed driveways do not adversely affect the functional character of the surrounding roadways.
- c) Adequate intersection and stopping sight distance is available at all driveways.

- d) Proposed driveways meet the City's access spacing standard or sufficient justification is provided to allow a deviation from the spacing standard.
- e) Opportunities for providing joint or crossover access have been pursued.
- f) The site does not rely upon the surrounding roadway network for internal circulation.
- g) The road system provides adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.
- g) A pedestrian path system is provided that links buildings with parking areas, entrances to the development, open space, recreational facilities, and other community facilities per the Transportation Planning Rule.

10C-25.06.012 Conditions of Approval

As part of every land use action, the City of Ontario, Malheur County (if access to a County roadway is proposed), and ODOT (if access to a state roadway is proposed) is required to identify conditions of approval needed to meet operations and safety standards and provide the necessary right-of-way and improvements to develop the future planned transportation system. These conditions of approval shall be identified by the applicant at the applicant's cost. Conditions of Approval that should be evaluated as part of subdivision and site plan reviews include:

- a) Crossover easement agreements for all adjoining parcels to facilitate future access between parcels.
- b) Conditional access permits for new developments which have proposed access points that do not meet the designated access spacing policy and/or have the ability to align with opposing access driveways.
- c) Right-of-way dedications for future planned roadway improvements.
- d) Half-street improvements along site frontages that do not have full-buildout improvements in place at the time of development.

10C-25.06.013 Transportation Impact Analysis Checklist

As part of the transportation impact analysis review process, all transportation impact analyses submitted to the City of Ontario must satisfy the requirements illustrated in the Checklist for Acceptance of Transportation Impact Analyses. The checklist is provided below.

Transportation Impact Analysis Checklist

Title of Report: _____

Author: _____ Date: _____

<u>Yes</u>	<u>No</u>	<u>N/A</u>	
			BACKGROUND INFORMATION
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	P. E. Stamp and Signature
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Proper format including Table of Contents, Executive Summary, Conclusions, and Appendices
			EXISTING CONDITIONS
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Description of proposed land use action
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Figure - Proposed Site Plan
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Figure - Site Vicinity Map showing the minimum study area boundary
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Description of existing site conditions and adjacent land uses
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Description of existing transportation facilities including roadway, transit, bicycle, and pedestrian facilities
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Figure - Existing Lane Configurations and Traffic Control Devices
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Figure - Existing traffic-volumes measured within previous 12 months
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Existing conditions analysis of the study area intersections
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Roadway and intersection crash history analysis
			BACKGROUND CONDITIONS
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Approved planned developments and funded transportation improvements
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Documentation of traffic growth assumptions and added traffic from other planned developments
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Figure – Background traffic volumes at study area intersections
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Background conditions analysis of the study area intersections
			FULL BUILDOUT CONDITIONS
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Description of proposed land use action and intended use
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Trip Generation - Based on most recent edition of ITE Trip Generation or approved other rates; include daily, AM, and PM peak hour (other time periods where applicable); provide complete documentation of calculations.
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Trip Distribution - Based on a regional planning model, supplied by staff, or analysis of local traffic patterns based on collected data.
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Figure – Estimated Trip Distribution Pattern (showing assignment onto major arterial/collector system)
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Figure – Site-Generated Traffic Volumes at study area intersections
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Figure – Full Buildout Traffic Volumes at study area intersections
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Full Buildout conditions analysis of the study area intersections
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Identify study area intersection and access driveway deficiencies
			WARRANTS/SAFETY ANALYSIS
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Verify compliance to Access Spacing Standard or justify any variance needed

- ⊙ ⊙ ⊙ Address potential safety problems resulting from conflicting turn movements with other driveways and internal traffic circulation
- ⊙ ⊙ ⊙ Determine need for storage lanes, right-turn lanes, and left-turn lanes
- ⊙ ⊙ ⊙ Address availability of adequate sight distance at frontage road access points, for both existing and ultimate road configuration
- ⊙ ⊙ ⊙ Evaluate need for deceleration lanes, and channelization when determined necessary by accepted standards and practices.
- ⊙ ⊙ ⊙ Evaluate whether traffic signals are warranted at study area intersections

IMPROVEMENT RECOMMENDATIONS

- ⊙ ⊙ ⊙ Identify alternate methods of mitigating identified deficiencies
- ⊙ ⊙ ⊙ If a signal is warranted, recommend type of signal control and phasing
- ⊙ ⊙ ⊙ If turn lanes required, recommend amount of storage

OTHER

- ⊙ ⊙ ⊙ Technical Appendix-sufficient material to convey complete understanding to staff of technical adequacy

COMMENTS:

Reviewed by: _____ Date of Review: _____

NOTE: This checklist displays the minimum information required for a Transportation Impact Analysis to be accepted as complete. Acceptance does not certify adequacy and is in no way an approval. Additional information may be required after acceptance of the Transportation Impact Analysis.

10C-25.07 PROTECTION OF PUBLIC USE AIRPORTS

10C-25.07.001 Purpose

In order to carry out the provisions of (this/these) overlay zone(s), there are hereby created and established certain zones which include all of the land lying beneath the Airport Imaginary Surfaces as they apply to the airport in the (city/county). Such zones are shown on the current airport Airspace and Runway Approach Zone drawings, prepared by _____ and dated _____.

Further, this overlay zone is intended to prevent the establishment of airspace obstructions in airport approaches and surrounding areas through height restrictions and other land use controls as deemed essential to protect the health, safety, and welfare of the people of the (city/county).

10C-25.07.002 Permitted uses within the Runway Approach Zone (RAZ)

While it is desirable to clear all objects from the RAZ, some uses are permitted, provided they do not attract wildlife, are below the approach surface and do not interfere with navigational aids.

The following uses are permitted within the RAZ:

- Agricultural operations (other than forestry or livestock farms).
- Golf courses (but not club houses).
- Automobile parking facilities.

10C-25.07.003 Conditional uses within the Airport Approach Safety Zone

- a) A structure or building accessory to a permitted use.
- b) Single family dwellings, mobile homes, duplexes, and multifamily dwellings, when allowed by the underlying zone, provided the landowner signs and records in the deed and mortgage records of (city/county) a Hold Harmless Agreement and Aviation and Hazard Easement and submits them to the airport sponsor and the (city/county) Planning Departments.
- c) Commercial and industrial uses, when allowed by the underlying zone, provided the use does not result in:
 - (1) Creating electrical interference with navigational signals or radio communication between the airport and aircraft.
 - (2) Making it difficult for pilots to distinguish between airport lights and lighting from nearby land uses.
 - (3) Impairing visibility.
 - (4) Creating bird strike or other wildlife hazards.

(5) Endangering or interfering with the landing, taking off or maneuvering of aircraft intending to use airport.

(6) Attracting a large number of people.

d) Buildings and uses of public works, public service, or public utility nature.

10C-25.07.004 Procedures

An applicant seeking a conditional use shall follow procedures set forth in the urban growth management plan/agreement between the City of Ontario and Malheur County. Information accompanying the application shall also include the following:

- Property boundary lines as they relate to the Airport Imaginary Surfaces.
- Location and height of all existing and proposed buildings, structures, utility lines, and roads.

In accordance with OAR Chapter 738 Division 100, City or County Planning Authority shall notify the owner of the airport and Aeronautics Section on land use permits or zone changes within 5,000 feet of a visual and 10,000 feet of instrument airport so as to provide Oregon Aeronautics Section an opportunity to review and comment.

10C-25.07.005 Limitations

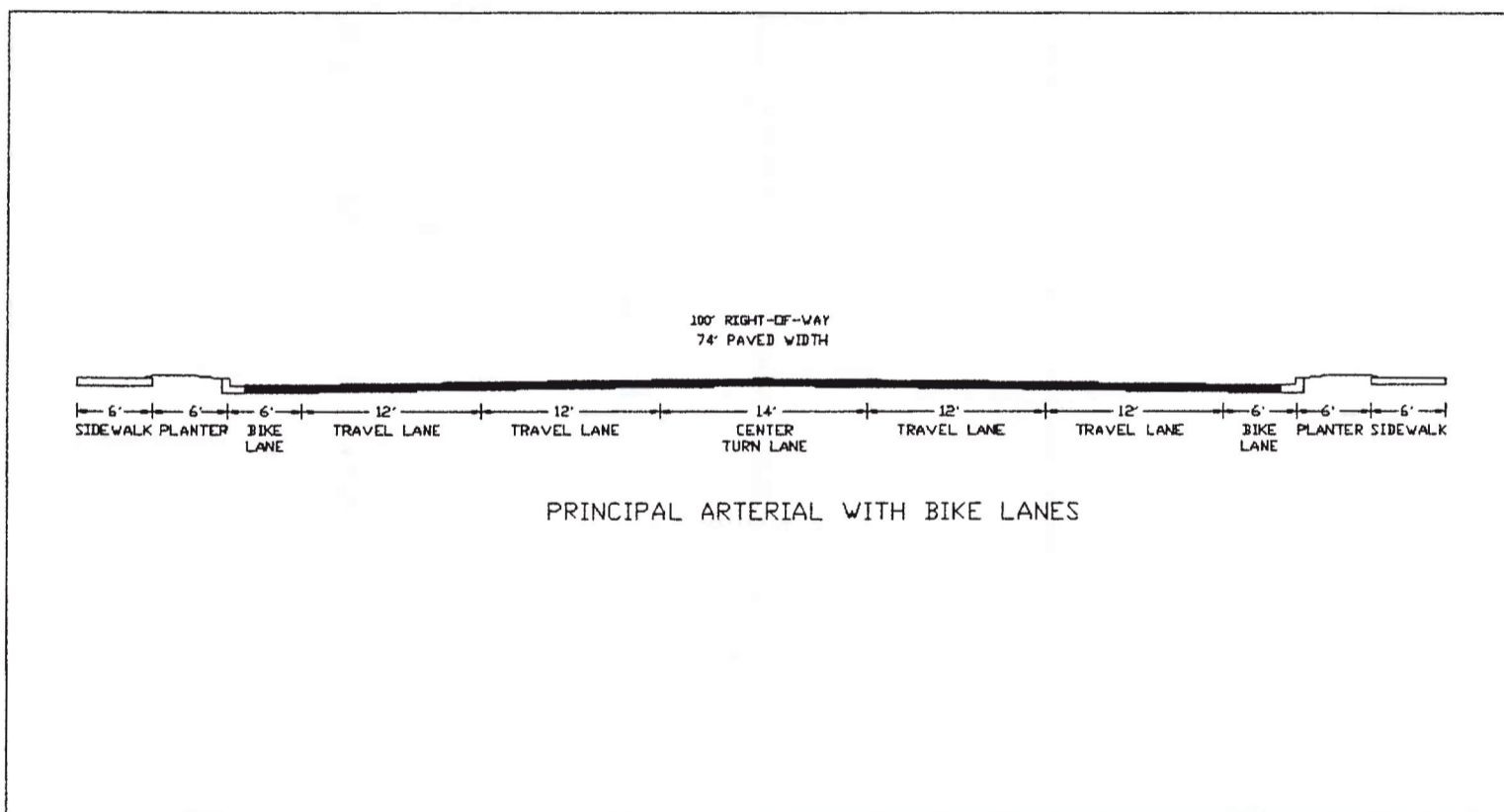
- a) To meet the standards established in FAA Regulations, Part 77 and OAR Chapter 738 Division 70, no structure shall penetrate into the Airport Imaginary Surfaces as defined above.
- b) No place of public assembly shall be permitted in the Airport Approach Safety Zone or RAZ.
- c) No structure or building shall be allowed within the RAZ.
- d) Whenever there is a conflict in height limitations prescribed by this overlay zone and the primary zoning district, the lowest height limitation fixed shall govern; provided, however, that the height limitations here imposed shall not apply to such structures customarily employed for aeronautical purposes.
- e) No glare producing materials shall be used on the exterior of any structure located within the Airport Approach Safety Zone.
- f) In noise sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 DNL and above for identified airports) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit, land division appeal, deed, and mortgage records. In areas where the noise level is anticipated to be 55 DNL and above, prior to issuance of a building permit for construction of noise sensitive land use (real property normally used for sleeping or normally used as schools, churches, hospitals, or public libraries) the permit applicant

shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55 DNL. The planning and building department will review building permits or noise sensitive developments.

- g) No development that attracts or sustains hazardous bird movements from feeding, watering, or roosting across the runways and/or approach and departure patterns of aircraft. Planning authority shall notify Oregon Aeronautics of such development (e.g., waste disposal sites and wetland enhancements) within the airport overlay zone so as to provide Oregon Aeronautics Section an opportunity to review and comment on the site in accordance with FAA AC 150/5200-33.

10C-25.08 STREET STANDARDS

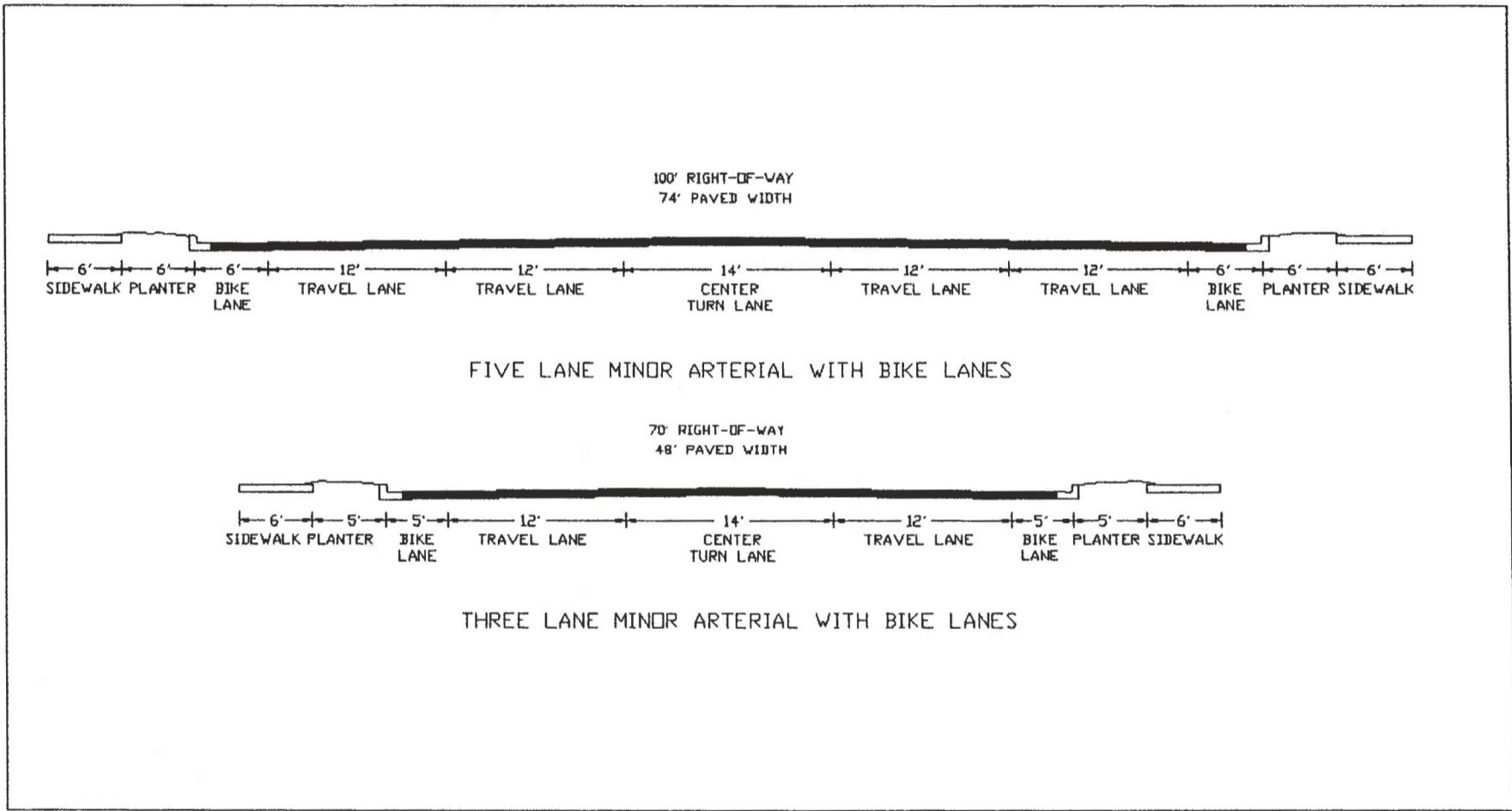
Planter strips shown on any figure, a through l, may be waived at the discretion of the Director of Public Works.



City of Ontario Transportation System Plan

NOT TO SCALE

Figure 10C-25.08:
Typical Roadway Cross Section Standard
Principal Arteria



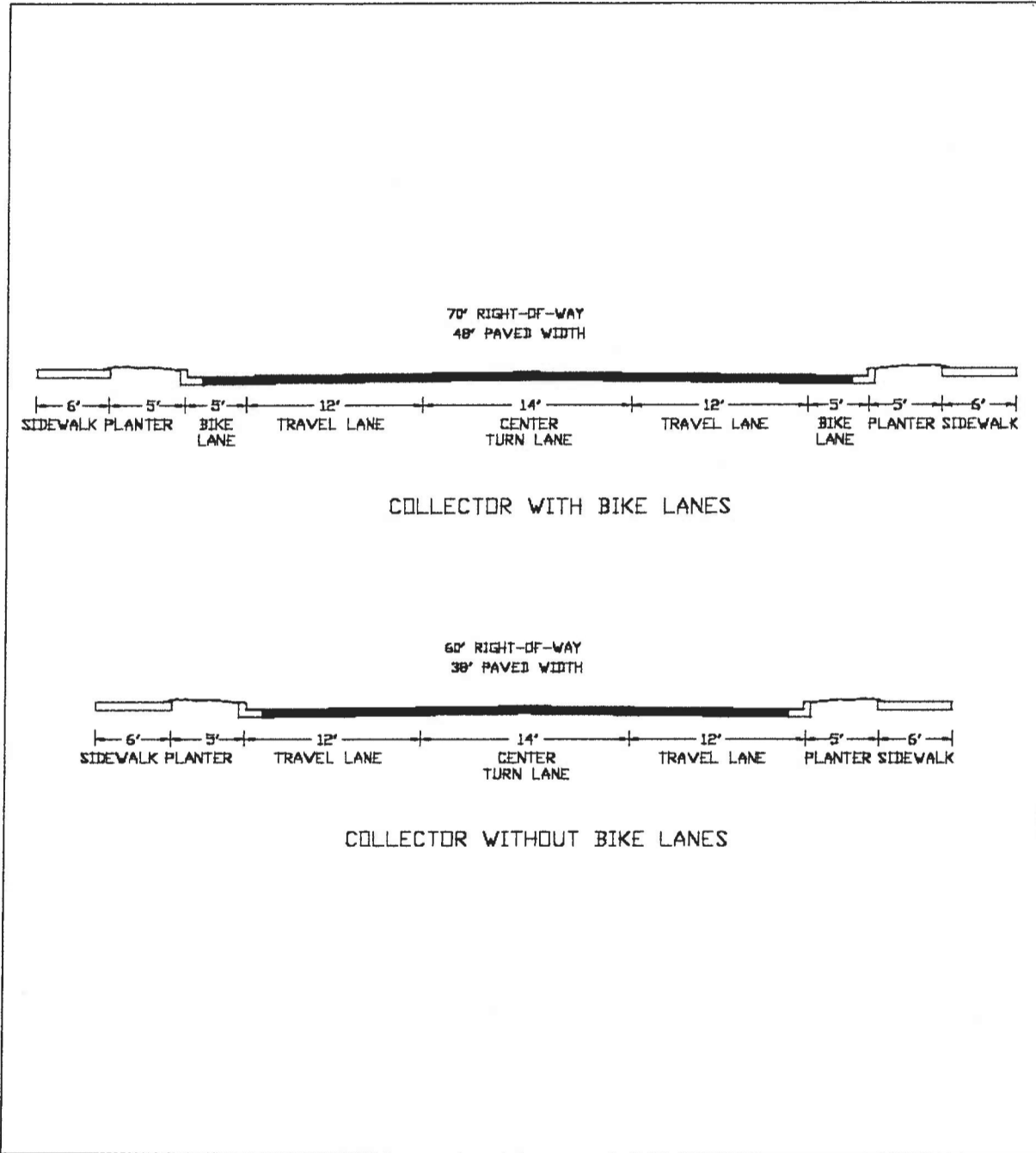
City of Ontario Transportation System Plan

Figure 10C-25.08b
Typical Roadway Cross Section Standards
Minor Arterial

NOT TO SCALE

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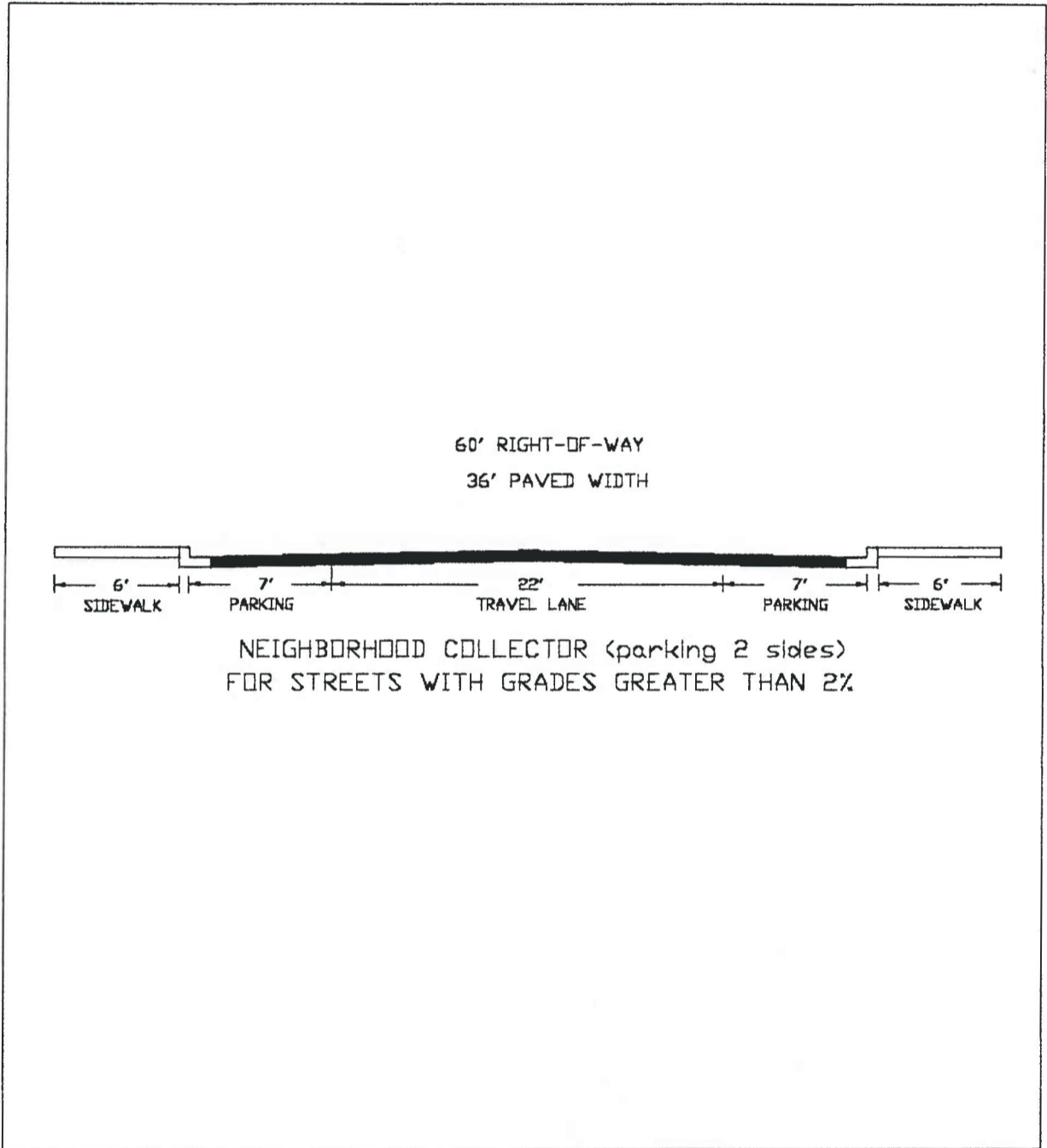
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Page ~~125~~ of ~~136~~ Pages



City of Ontario Transportation System Plan

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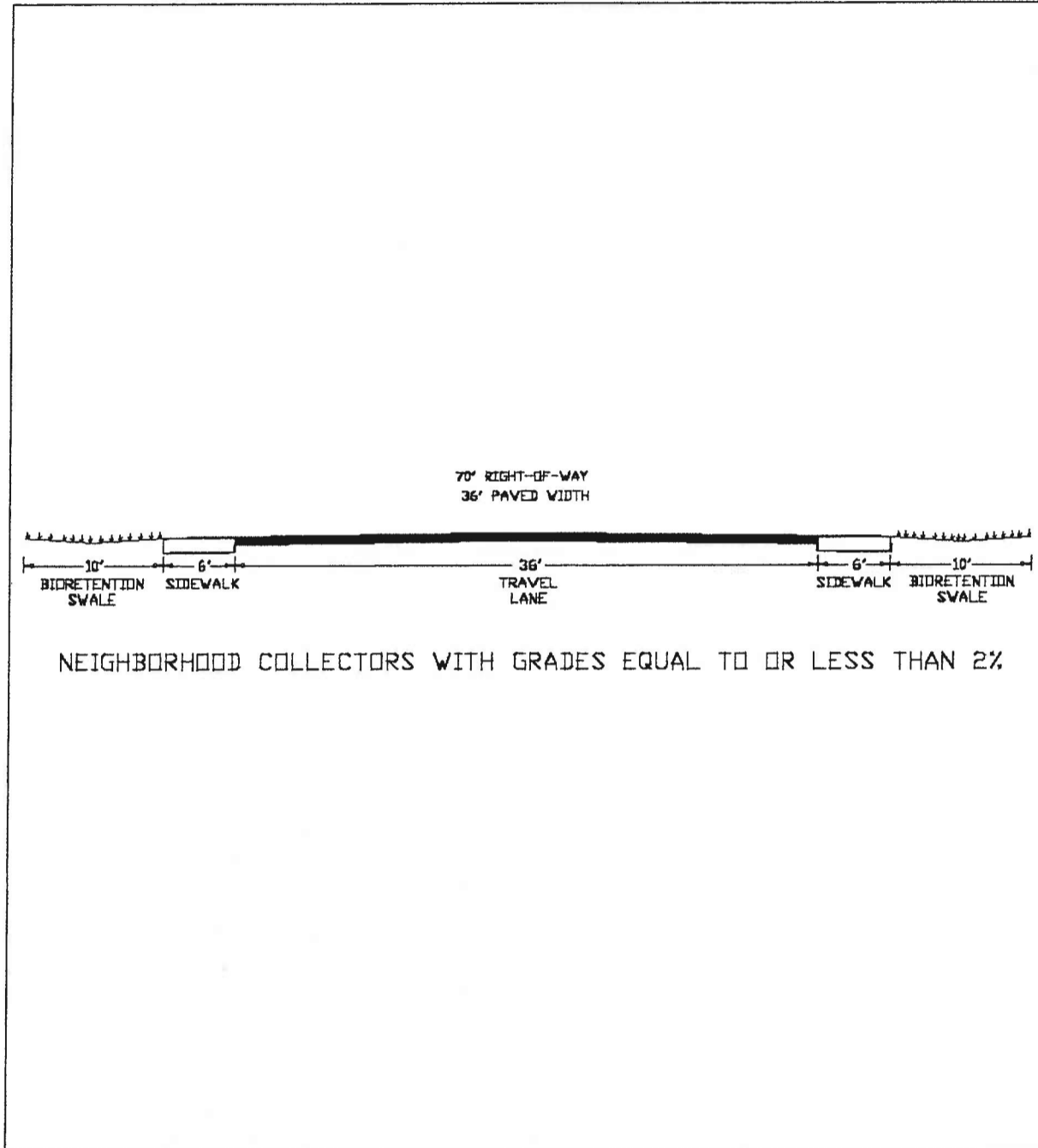
Figure 10C-25.08c
Typical Roadway Cross Section Standards
Collector



City of Ontario Transportation System Plan



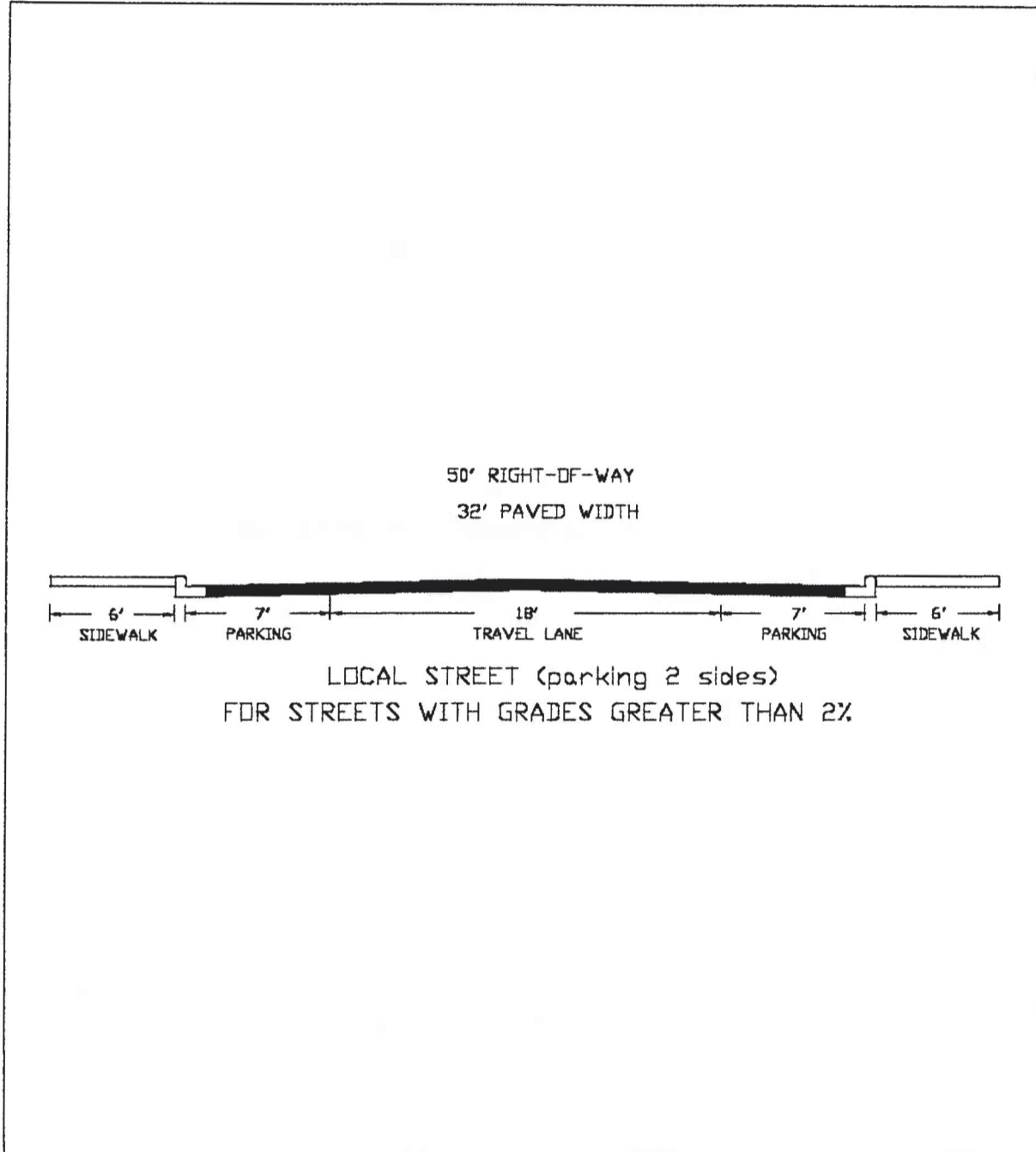
Figure 10C-25.08d
Typical Roadway Cross Section Standards
Neighborhood Collector Greater Than 2%



City of Ontario Transportation System Plan

NOT TO SCALE

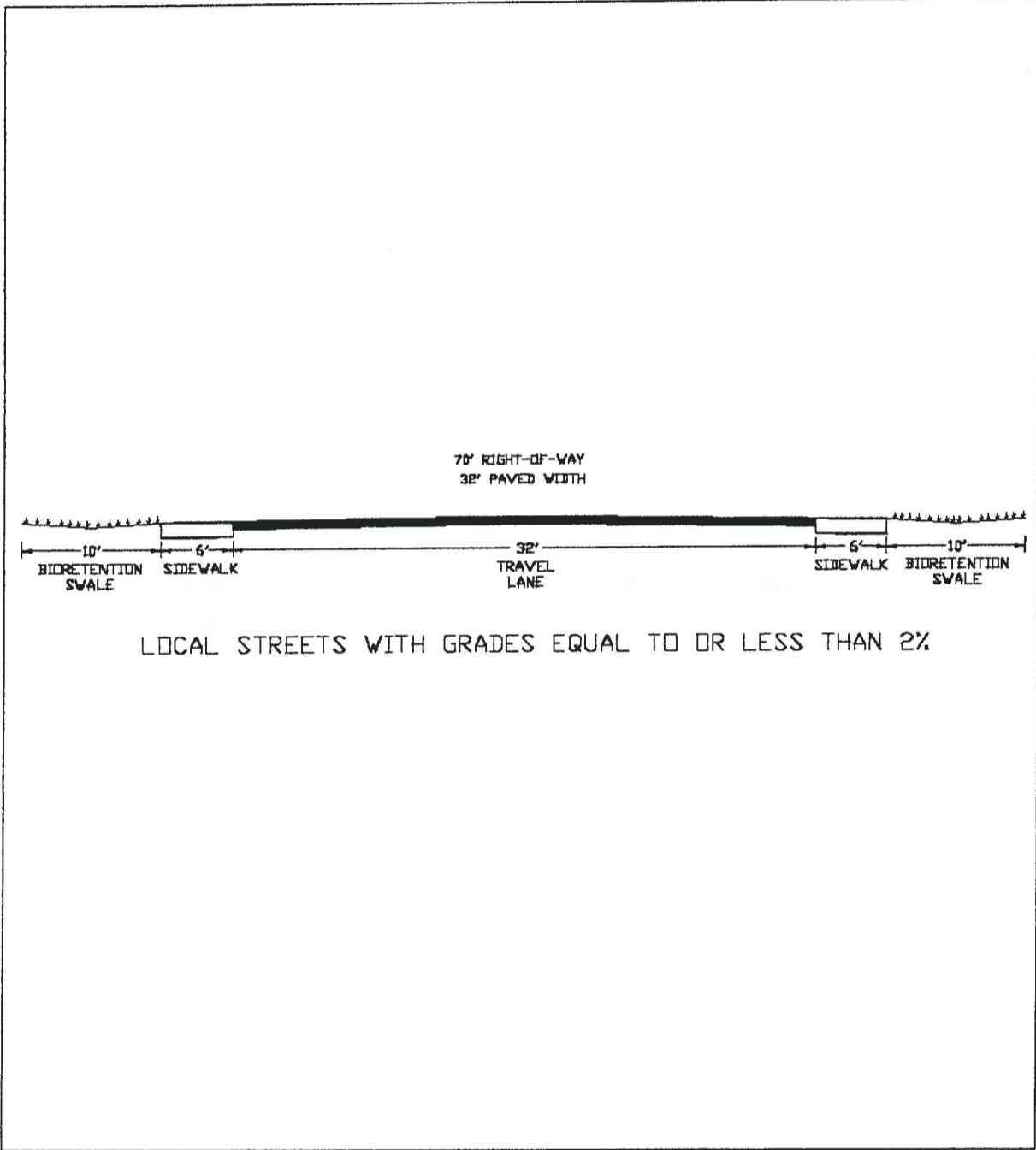
Figure 10C-25.08e
Typical Roadway Cross Section Standards
Neighborhood Collector Equal to or Less Than 2%



City of Ontario Transportation System Plan



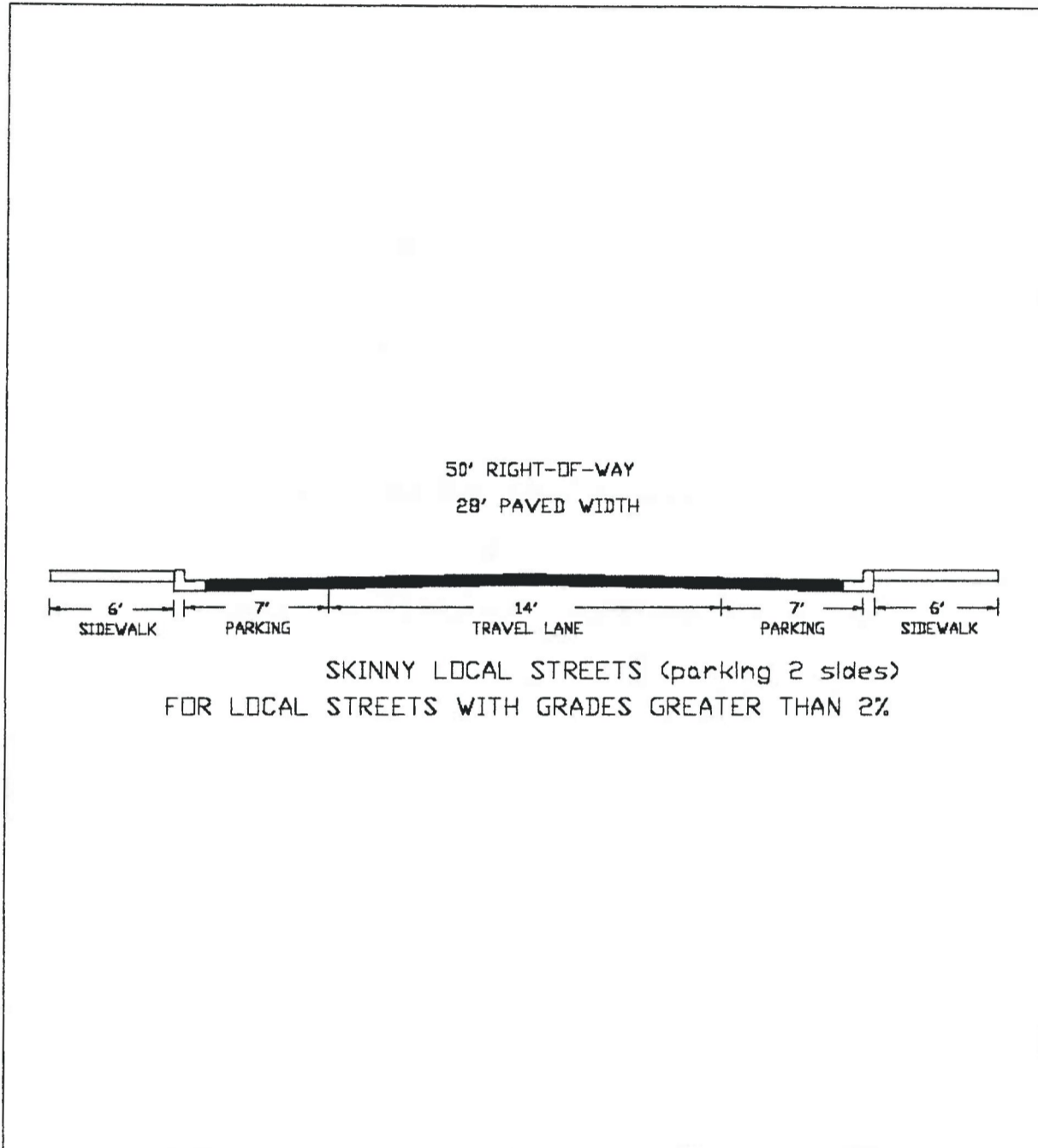
Figure 10C-25.08f
Typical Roadway Cross Section Standards
Local Street Greater Than 2%



City of Ontario Transportation System Plan



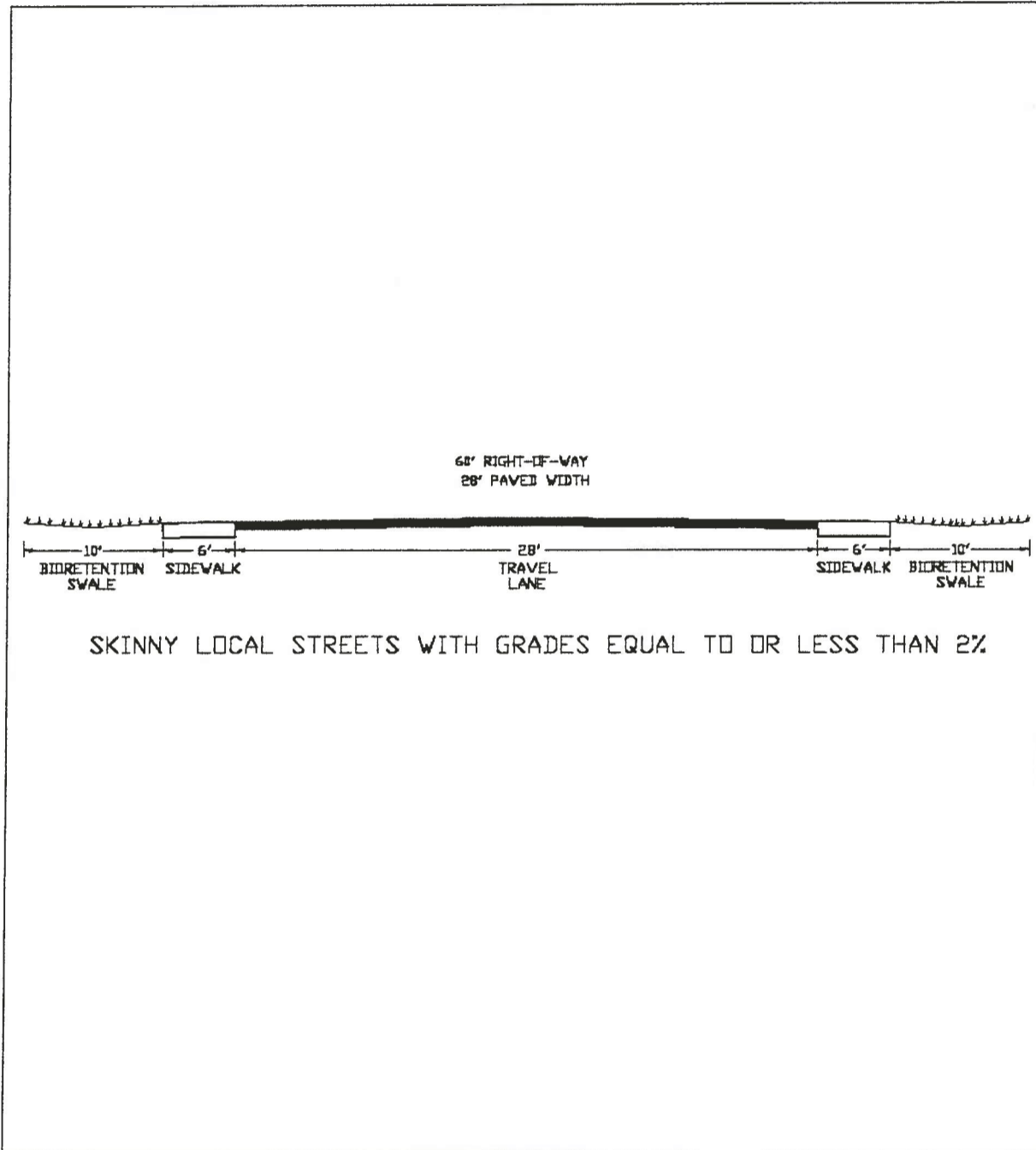
Figure 10C-25.08g
Typical Roadway Cross Section Standards
Local Street Equal to or Less Than 2%



City of Ontario Transportation System Plan



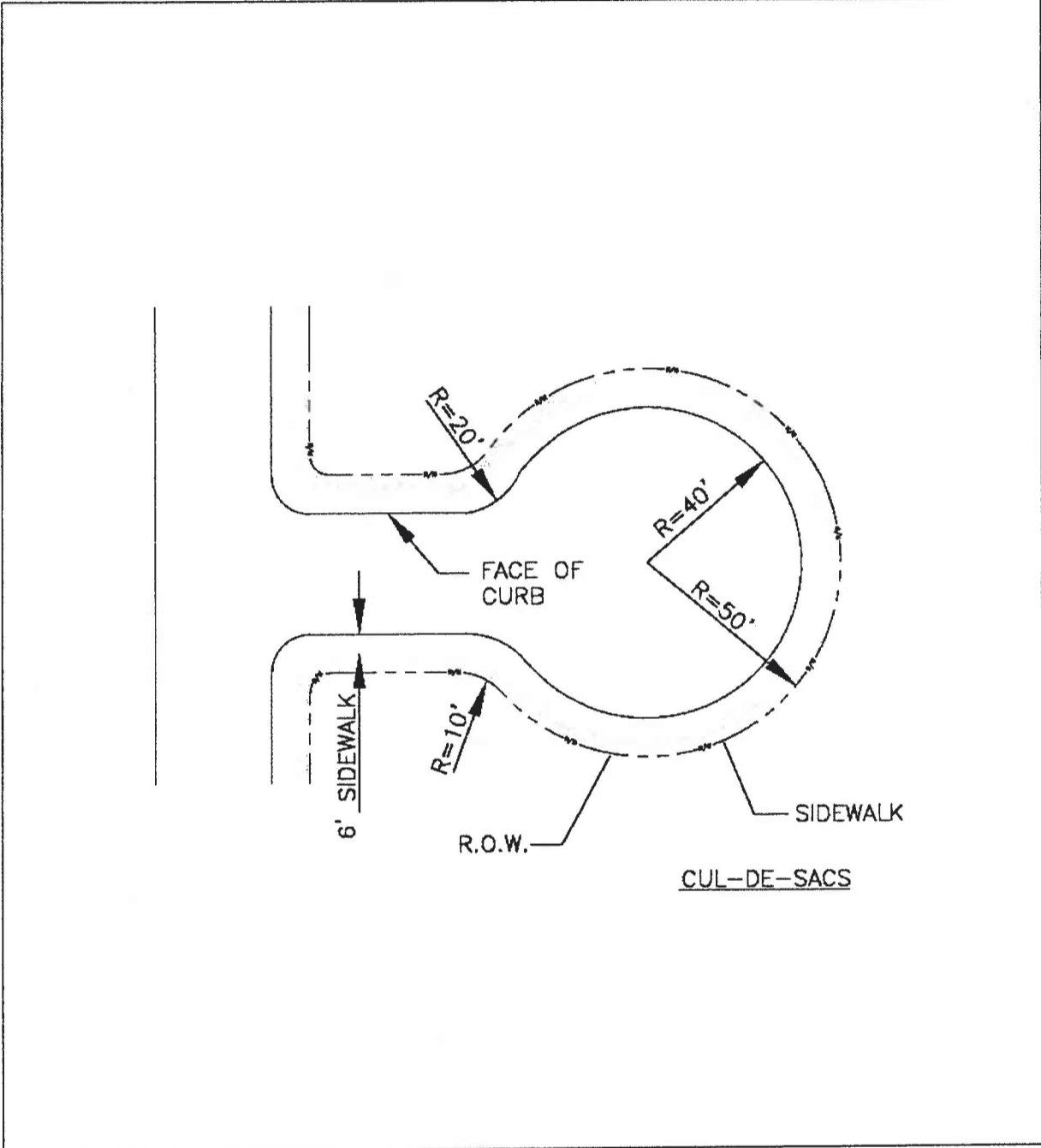
Figure 10C-25.08h
Typical Roadway Cross Section Standards
Skinny Local Street Greater Than 2%



City of Ontario Transportation System Plan



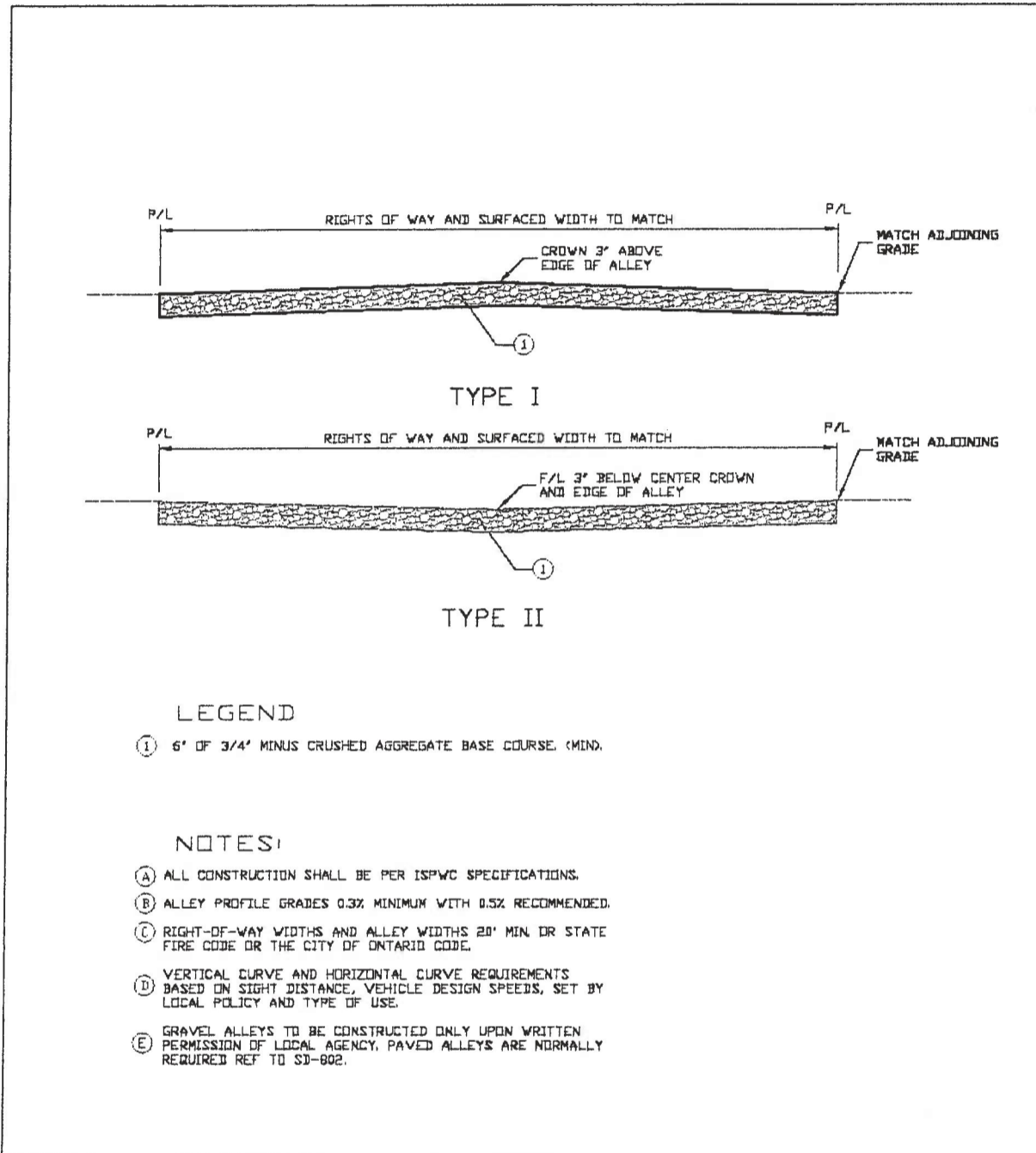
Figure 10C-25.08i
Typical Roadway Cross Section Standards
Skinny Local Street Equal to or Less Than 2%



City of Ontario Transportation System Plan



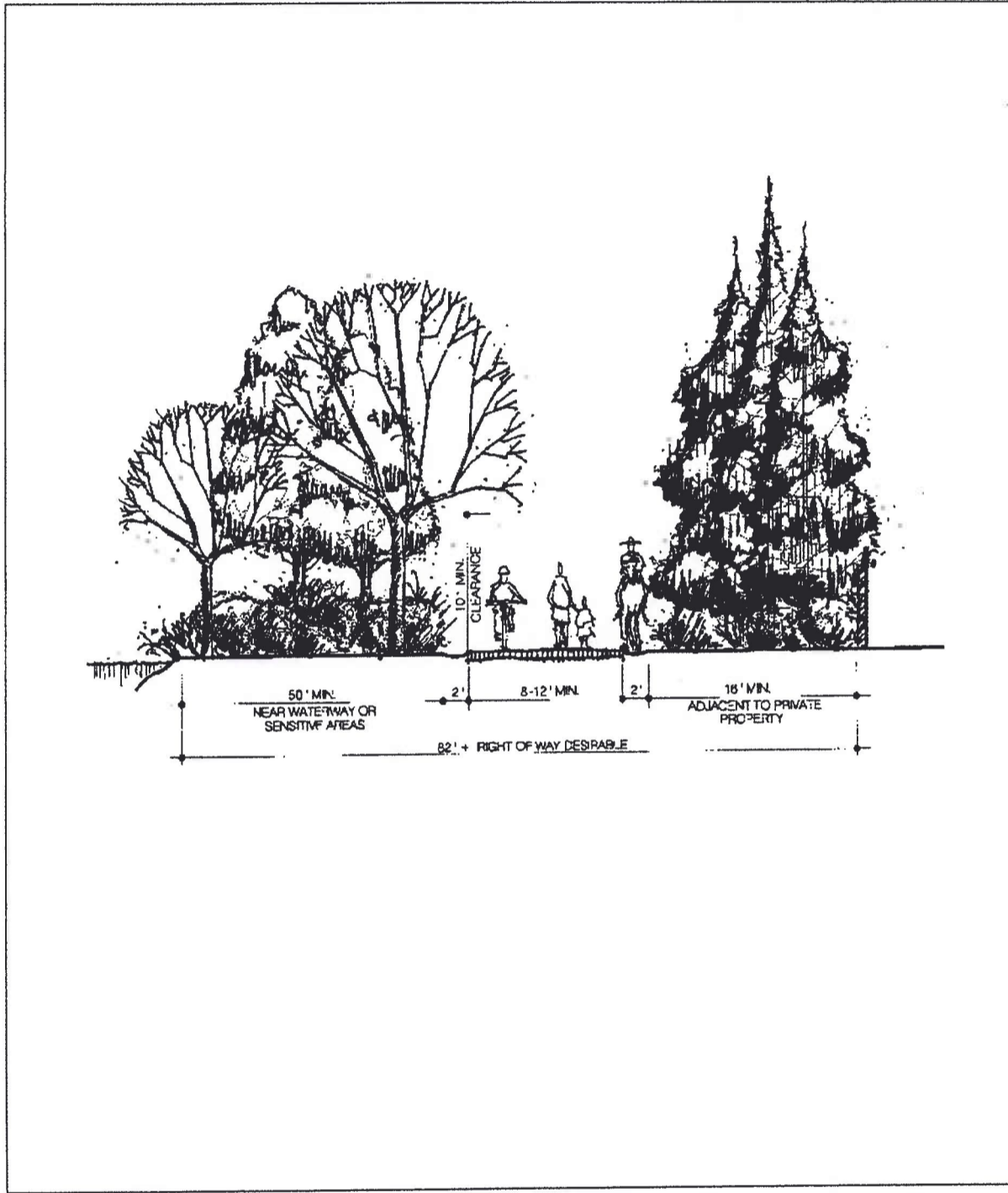
Figure 10C-25.08j
Typical Roadway Cross Section Standards
Cul de Sac Turn Around



City of Ontario Transportation System Plan



Figure 10C-25.08K
 Roadway Cross Section Standards
 Alley



City of Ontario Transportation System Plan

NOT TO SCALE

Figure 10C-25.08L
Multi - Purpose Trail

10C-30-05 ENGINEERING GEOLOGY REPORT. The Planning Official may require an assessment of the development site by an Engineering Geologist licensed in the State of Oregon; such assessment shall be in the form of a written report. The Geological Report shall, at a minimum, include maps of the site, an overview description of the site, the geology of the site, an analysis of the effect of the geologic conditions on the proposed development, and opinions and recommendations regarding mitigation measures to ensure that the proposed development will be reasonably safe from geologic hazards as regards property damage or harm to occupants for an economic lifetime of at least 50 years. Recommendations for mitigation measures shall be incorporated in all construction plans, which shall be drawn up by, and bear the stamp of, an engineer qualified for the applicable plan.